

**DECISIONS**  
**OF THE**  
**RAILROAD COMMISSION**  
**OF THE**  
**STATE OF CALIFORNIA**

**VOLUME XV**

**JANUARY 1, 1918 TO AUGUST 31, 1918**



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SECRETARY

Office of Commission  
833 MARKET STREET  
SAN FRANCISCO

JUL 11 1915

# CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION No. 5009.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND  
TERMINAL RAILWAYS FOR AUTHORITY TO PLEDGE AS COL-  
LATERAL SECURITY ITS GENERAL LIEN MORTGAGE BONDS.

Application No. 3425.

*Decided January 4, 1918.*

Applicant granted permission to pledge as collateral security for a promissory note in the sum of \$9,000.00, \$17,000.00 face value of its general lien bonds; provided, that such pledge shall be made under an agreement that in the event of non-payment of such note the bank shall first exercise its banker's lien on moneys deposited by applicant or only such portion of pledged bonds be offered for sale as are necessary to net the bank the face value of the note with accrued interest.

A. L. Whittle, for Applicant.

THELEN, *Commissioner*.

## OPINION.

This is an application of San Francisco-Oakland Terminal Railways for authority to pledge \$17,000.00 face value of its general lien mortgage bonds with the First National Bank of Oakland as collateral security for a 6 per cent demand note in the principal sum of \$9,000.00. Said note is to be the basis for the execution and delivery to applicant by First National Bank of Oakland of a certified check in the sum of \$9,000.00, which applicant intends to deliver to Maryland Casualty Company as collateral security for the execution and delivery to San Francisco-Oakland Terminal Railways by Maryland Casualty Company of an undertaking and stay bond on appeal in the case of *Susan D. Boa*, plaintiff, vs. *San Francisco-Oakland Terminal Railways*, a corporation, defendant. A judgment in this case was recently entered in the Superior Court of Alameda County against San Francisco-Oakland Terminal Railways for the sum of \$8,000.00 and costs. Applicant now desires to appeal this case to the Supreme Court of the state of California, and finds it necessary to make arrangements for the execution of an undertaking and stay bond on appeal, as hereinbefore set forth.

In Decision No. 1604, dated June 23, 1914 (Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 1290), the commission authorized San Francisco-Oakland Terminal Railways to issue \$1,000,000.00 of general lien bonds as collateral security for an issue of notes in the sum of \$650,000.00. At the hearing, applicant filed a

statement showing that as of January 3, 1918, it had outstanding \$757,000.00 face value of bonds pledged as collateral security for \$499,089.64 face value of notes. Of the remaining bonds, \$177,000.00 face value are held in applicant's treasury and \$66,000.00 are held by Mercantile Trust Company, trustee.

Applicant reports that the \$17,000.00 face value of bonds, which it desires to pledge at the present time, are bonds which have been returned to it upon partial satisfaction of the obligations for which said bonds were originally pledged.

The petition in this matter states that the general lien mortgage bonds which applicant desires to pledge will be deposited with the First National Bank of Oakland under a collateral pledge agreement, providing that only in the event that San Francisco-Oakland Terminal Railways shall fail to pay the promissory note in the sum of \$9,000.00, and only after said First National Bank of Oakland shall have exercised its banker's lien on money on deposit in said bank to the credit of San Francisco-Oakland Terminal Railways, shall such portion of general lien mortgage bonds, and only such portion be offered for sale as may be necessary to pay said promissory note, together with accrued interest thereon, and that in the event said promissory note and interest thereon shall be paid said general lien mortgage bonds shall be returned to San Francisco-Oakland Terminal Railways. Under these circumstances, I believe this commission may authorize San Francisco-Oakland Terminal Railways to pledge its general lien mortgage bonds as requested in the application herein.

I submit the following form of order:

#### ORDER.

San Francisco-Oakland Terminal Railways having applied to the Railroad Commission for authority to pledge \$17,000.00 face value of its general lien mortgage bonds with the First National Bank as collateral security for a 6 per cent demand note in the principal sum of \$9,000.00, as hereinbefore set forth, and a public hearing having been held and the commission being of the opinion that this application should be granted, subject to the conditions contained in the order herein,

*It is hereby ordered* that San Francisco-Oakland Terminal Railways be and it is hereby authorized to issue and pledge \$17,000.00 face value of its general lien mortgage bonds with the First National Bank of Oakland as collateral security for a promissory note in the principal sum of \$9,000.00 payable on demand, bearing interest at 6 per cent per annum, the proceeds of said note to be used in securing a certified check to be deposited with Maryland Casualty Company as collateral security for the execution and delivery of an undertaking and stay bond

on appeal in the case of *Susan D. Boa*, plaintiff, vs. *San Francisco-Oakland Terminal Railways*, a corporation, defendant, said authority to issue and pledge said bonds being granted upon the following conditions:

1. The general lien mortgage bonds herein authorized to be issued and pledged shall only be pledged under a collateral pledge agreement providing that only in the event that San Francisco-Oakland Terminal Railways shall fail to pay the promissory note in the sum of \$9,000.00, and only after said First National Bank of Oakland shall have exercised its banker's lien on money on deposit in said bank to the credit of San Francisco-Oakland Terminal Railways, shall such portion of said general lien mortgage bonds, and only such portion be offered for sale as may be necessary to pay said promissory note, together with accrued interest thereon, and that in the event said promissory note and interest thereon shall be paid, said general lien mortgage bonds shall be returned to the treasury of San Francisco-Oakland Terminal Railways and thereafter issued only upon further order from this commission.

2. San Francisco-Oakland Terminal Railways shall keep separate, true and accurate accounts relative to the pledge of bonds herein authorized to be pledged, and on or before the twenty-fifth day of each month, the company shall make verified reports to the commission relative to the pledge of said bonds in accordance with this commission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. The authority herein granted shall apply only to such bonds as shall have been issued and pledged on or before January 30, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fourth day of January, 1918.

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DECISION No. 5016.

IN THE MATTER OF THE APPLICATION OF W. P. McINTOSH, W. M. McINTOSH, GEORGE W. McINTOSH AND ALAN P. McINTOSH FOR LEAVE TO SELL AND OF THE MENTONE WATER COMPANY FOR LEAVE TO BUY, THE PROPERTY OF A PUBLIC UTILITY AND TO ISSUE ITS CAPITAL STOCK IN THE PAR AMOUNT OF TEN THOUSAND DOLLARS IN PAYMENT FOR SAID PROPERTY.

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Application No. 3110.

*Decided January 8, 1918.*

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Applicants, McIntosh, authorized to transfer a certain water system in and adjacent to the town of Mentone to the Mentone Water Company and the latter to issue \$10,000.00 par value of its capital stock and assume an indebtedness of \$4,000.00 in consideration therefor.

Applicants' petition for permission to assume \$10,000.00 of the indebtedness at present resting against properties, a portion of which it proposes to acquire under the present proceedings, is denied, the amount being reduced to \$4,000.00, it being held that a small utility of this nature should not be permitted to assume at its inception, an indebtedness, the interest charges on which are in excess of its net earnings.

*W. J. Williams*, for Applicants.

*Haas & Dunnigan*, by *Walter Haas*, for certain irrigators from Mentone Irrigation Company system.

BY THE COMMISSION.

#### OPINION.

W. P. McIntosh, W. M. McIntosh, George Wade McIntosh and Alan P. McIntosh ask authority to sell a public utility water plant serving in Mentone and vicinity in San Bernardino County, to the Mentone Water Company. The property is more fully described in Exhibit "I" attached hereto. The purchasing company desires authority to purchase said water plant; to issue in payment therefor \$10,000.00 par value of its common capital stock or such lesser amount as the Railroad Commission may authorize and to assume the payment of \$10,000.00 of indebtedness, to which reference will be made hereafter.

A public hearing upon the application was held by Examiner Westover at Mentone.

Mentone Irrigation Company, hereinafter referred to as the "Irrigation Company," was organized about 1887 for the purpose of bringing water to certain lands which were being subdivided by W. P. McIntosh and associates in and about what is now Mentone. The irrigation company was organized with a capital stock of 4,000 shares of the par value of \$100.00 each. Of these shares 150 were acquired by applicants and are now held by them. About 170 to 180 shares were acquired by other persons for irrigating lands on the Mentone side of Mill Creek. Irrigators on "the bench" on the opposite side of Mill Creek from Mentone acquired 272 shares.

The irrigation company constructed a water tunnel and conveyed water by pipe line to a reservoir in Mentone owned by the subdividers, who constructed a distribution system and furnished water for domestic use and some irrigation use in and about Mentone. They operated under the fictitious name of Mentone Water Company, herein referred to as the "domestic company." Certain irrigators having land below the reservoir were given the right to tap the lines of the domestic system for the purpose of conveying their irrigation water represented by stock held by the irrigators in the irrigation company, thus avoiding the necessity of extending the pipes of the irrigation company. About 45 acres were so irrigated.

The corporate existence of the irrigation company was terminated through failure to pay its corporation license tax in 1912. Portions of the pipe line between the tunnel and reservoir were washed out by flood. Replacements appear to have been made by stockholders on "the bench" principally, without special reference to the proportions of stock owned by them, and without levying assessments in the legal sense of the term.

Vendors claim title to the property described in the exhibit annexed to the order herein through mesne conveyances. For the purposes of this proceeding it will be assumed that the legal title to all said property is in them, including 150 shares of stock of the irrigation company.

Mr. Haas appearing at the hearing for "the people on the bench," stated that his clients did not oppose the granting of the application but were particularly interested in seeing that the commission did not make any order relating to a division of the water between them and applicants which would injuriously affect their interests. It is not necessary to pass on this matter herein.

In Exhibit "A" attached to the application, applicants report the appraised cost of the properties to be transferred at \$27,828.00, based on present day prices, including \$11,250.00 for the 150 shares of water stock, which applicants claim represent a right to the delivery of 15 miner's inches of water. The commission's engineers appraise the physical properties described in the exhibit at \$9,323.00, using average normal prices.

Applicants have at present 52 service connections of which 26 are metered.

The receipts from the water property for 1916 amounted to \$761.87 and the operating expenses \$277.45, leaving a net revenue of \$499.42. Applicants estimate that during 1917 operating revenues will amount to approximately \$1,000.00 and the operating expenses to about \$300.00, leaving a net revenue of about \$700.00.

The operating expenses shown above include no allowance for depreciation. Estimating the annual revenue at \$1,000.00, depreciation charge at \$120.00, and operating expenses at \$300.00, leaves but \$580.00, an amount inadequate to pay interest on the debt which Mentone Water Company proposes to assume, to pay miscellaneous expenses, and provide for a sinking fund.

Applicants wish to convey their public utility property to Mentone Water Company, a corporation, organized in July, 1917, with a capital stock of \$25,000.00, divided into 25,000 shares of the par value of \$1.00 each. Their lands in and about Mentone having no public utility character they have segregated and conveyed to Mentone Groves Company, a corporation recently organized for the purpose of acquiring said lands.

On January 31, 1917, the vendors issued to the Mortgage Guarantee Company their five-year 6½ per cent \$55,000.00 note. The proceeds of this note were used to acquire certain interests in the real estate in and about Mentone, which were conveyed to Mentone Groves Company, and also in the water stock and property which applicants now wish to sell and convey to said Mentone Water Company.

The payment of said note for \$55,000.00 is secured by mortgage covering all of the real estate conveyed to Mentone Groves Company, and the domestic water system, which applicants wish to convey to Mentone Water Company. The water company wishes to assume the payment of \$10,000.00 of the \$55,000.00 note, form of the proposed agreement being filed herein as applicants' Exhibit "2." The mortgage securing the payment of the \$55,000.00 note appears to be void in so far as it applies to public utility property by virtue of section 51 of the Public Utilities Act, as the commission did not authorize its execution. Counsel for applicants has advised the commission since the hearing that arrangement has been made whereby the public utility property is to be released from the lien of the mortgage if such lien ever existed, upon condition that the stock issued in payment for the properties be deposited with the mortgagee.

The investment per consumer in the domestic system is large and the system is overbuilt. It is not to the interest of the new company or its patrons that it should begin operations burdened with a debt of \$10,000.00 and with an interest charge in excess of its net earnings.

Without specifically finding the value of 150 shares of stock or the amount or value of the water obtainable under it, we are of the opinion that to acquire the properties, the Mentone Water Company should not issue stock in excess of \$10,000.00 nor assume the payment of more than \$4,000.00 of indebtedness and the order will so provide.

#### ORDER.

W. P. McIntosh, W. M. McIntosh, George Wade McIntosh and Alan P. McIntosh having applied to the Railroad Commission for authority to sell the public utility properties described in Exhibit "1" attached hereto, to the Mentone Water Company, and the Mentone Water Company having applied to the Railroad Commission for authority to issue \$10,000.00 of stock in payment for said properties and assume the payment of \$10,000.00 of indebtedness, and a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that W. P. McIntosh, W. M. McIntosh, George Wade McIntosh and Alan P. McIntosh be and they are hereby granted

authority to transfer to the Mentone Water Company, the properties described in Exhibit "I" attached hereto.

*It is hereby further ordered* that Mentone Water Company be and it is hereby granted authority to issue in payment for said properties \$10,000.00 par value of stock and assume the payment of \$1,000.00 of the \$55,000.00 6½ per cent five-year note executed by the vendors to Mortgage Guarantee Company on January 31, 1917.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The price at which the properties described in Exhibit "I" attached hereto are authorized to be transferred shall not be urged before this commission or any public body as a measure of value of said properties for rate-fixing or any other purpose.

2. Mentone Water Company shall file with the commission within thirty days after the transfer of the properties a copy of the mortgage securing the payment of the \$55,000.00 note heretofore executed by the vendors, together with a copy of the release whereby the lien on the properties herein authorized to be transferred will be removed.

3. Within thirty days after the transfer of the properties herein authorized, Mentone Water Company shall file with the commission a copy of the instrument of conveyance under which it holds title to said properties.

4. Mentone Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to sell and transfer properties and issue stock shall apply only to such properties as may be sold and transferred and to such stock as may be issued on or before March 1, 1918.

Dated at San Francisco, California, this eighth day of January, 1918.

#### EXHIBIT "I."

*The Property to be Sold and Transferred by W. P. McIntosh, W. M. McIntosh, George Wade McIntosh and Alan P. McIntosh to Mentone Water Company, as Described in Exhibit "A" Attached to the Petition Herein, as Follows:*

PARCEL I. That certain parcel of land in the County of San Bernardino, State of California, described as follows:

A rectangular piece of land located in said Lot One (1), of Block Twelve (12), of Mentone, as per map of Mentone, recorded in Book 8, page 81, of Maps, San Bernardino County Records, more particularly described as follows, to-wit:

Beginning at a point on the South side of said Lot One (1), 282 feet East of its Southwest corner (said Southwest corner being in the East line of Ruby Avenue);



thence North 151½ feet; thence East 144 feet; thence South 151½ feet to the South line of said Lot 1; thence West 144 feet to the point of beginning, containing an area of one-half acre;

Together with the reservoir located thereon.

PARCEL II. Also a right of way and easement across said Lot 1, of Block 12, of Mentone, from the half acre of land above described Westerly to said Ruby Avenue.

Also the right to enter upon said Lot 1 to maintain, repair, renew, inspect and look after the pipe line laid in the right of way above described, and for access to the said reservoir hereinbefore described;

Being the right of way and easement referred to in deed to the Pacific Land Improvement Company from S. H. Marlette, W. P. McIntosh and Miles Dodd, Jr., dated April 28, 1895, and recorded in the office of the County Recorder of the said County of San Bernardino, in Book 914, of Deeds, at page 196.

PARCEL III. 150 shares of the capital stock of the Mentone Irrigation Company, a corporation, representing a right to the delivery of 15 miner's inches of water.

PARCEL IV. The following pipe lines and their equipment, namely:

(a) Pipe lines laid in the right of way as follows:

Beginning at the reservoir above described, running thence westerly along the southern line of said Lot 1 to Ruby Avenue; thence along the westerly line of said Ruby Avenue to the south line of Mentone Avenue; thence west along said Mentone Avenue to a point a few feet west of Emerald Avenue.

Said pipe line is 8-inch steel drive pipe, 2400 feet from said reservoir to the west line of Agate Avenue, and 6-inch steel drive pipe 1200 feet from said west line of Agate Avenue to the western end of the line.

2400 feet of 8-inch pipe,

1200 feet of 6-inch pipe,

(b) The following pipe lines and their equipment, of which 10,250 feet are 2-inch screw pipe and the residue 200 feet. Extending from Naples Avenue along the east line of Beryl Avenue is 1-inch screw pipe, namely:

From Brighton Avenue to Florence Avenue,

From Brighton Avenue to the center of Block 64, south of Florence Avenue,

From Brighton Avenue to the north line of Naples Avenue,

From the east line of Tourmaline Avenue to the south line thereof,

From Brighton Avenue along Turquoise Avenue to Naples Avenue,

From the north line of Brighton Avenue, along the east line of Opal Avenue to Nice Avenue, and along the south line of Nice Avenue across said Opal Avenue, and along the westerly half of said Opal Avenue to a point near the south line of Block 6 of the Mentone lands, as shown on said Stretch Map.

From Brighton Avenue along the west line of the railroad right of way to Naples Avenue.

From Brighton Avenue, along the east line of Jasper Avenue to the south line of Naples Avenue; thence across Jasper Avenue and along the west line thereof to the south line of Nice Avenue.

Thence along the south line of Nice Avenue to a point near the northeast corner of Lot 2 of the Mentone lands, as said lot is shown on the Stretch Map.

From Brighton Avenue, along the east line of Chrysolite Avenue to the south line of Florence Avenue.

Also from a point in the main line a few feet east of the gate valve, near the east line of Emerald Avenue; running thence across said Emerald Avenue to the southeast corner of the northeast quarter of Section 24, Township 1 south, Range 3 west, S. B. B. & M.

Also several short lines extending across Mentone Avenue northerly from the easterly line of Chrysolite Avenue and Jasper Avenue, and one or two other lines.

10,250 feet of 2-inch pipe line,

200 feet of 1-inch pipe line.

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(c) One 8-inch gate valve, about 40 feet west of reservoir.

One 8-inch gate valve, a few feet west of the eastern line of Lot 1, in Block 10, as per said Stretch Map.

Two 8-inch valves.

(c) One 6-inch gate valve, about 18 feet east of Olivano Avenue.

One 6-inch gate valve, about 18 feet east of Tourmaline Avenue.

One 6-inch gate valve, about 18 feet east of Turquoise Avenue.

One 6-inch gate valve, about 18 feet east of Opal Avenue.

One 6-inch gate valve, about 18 feet east of Emerald Avenue.

Five 6-inch gate valves.

(f) 20 meters installed.

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### DECISION No. 5020.

IN THE MATTER OF THE APPLICATION OF THE DOWNEY HOME TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF FIFTEEN THOUSAND DOLLARS PAR VALUE OF CAPITAL STOCK OF THE COMPANY AND THE DELIVERY OF THE SAME TO THE BONDHOLDERS OF THE COMPANY IN EXCHANGE FOR FIFTEEN THOUSAND DOLLARS PAR VALUE OF ITS OUTSTANDING BONDS.

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Application No. 3401.

*Decided January 8, 1918.*

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Applicant authorized to issue \$15,000.00 par value of its capital stock and to use the same or the proceeds thereof to retire \$15,000.00 face value of outstanding bonds, cancel its deed of trust and secure from the trustee money now held in its sinking fund; provided, that if any bonds are purchased for cash, applicant shall not pay any sum therefor in excess of their face value and accrued interest.

*Benjamin E. Page and Arthur C. Hurl, for Applicant.*

BY THE COMMISSION.

### OPINION.

Downey Home Telephone and Telegraph Company applies for authority to issue \$15,000.00 par value of its capital stock in exchange for the total outstanding issue of \$15,000.00 of its 5 per cent bonds. The company operates in Los Angeles County in the unincorporated towns of Downey, Norwalk, Artesia and Bellflower and in intervening territory, having about 60 miles of pole lines and about 602 subscribers.

A public hearing upon the application was held by Examiner Westover at Los Angeles, January 3, 1918.

Applicant was incorporated in April, 1905, with an authorized capital stock of \$50,000.00, divided into 500 shares of the par value of \$100.00 each. It has an authorized bonded indebtedness of \$50,000.00.

Soon after its incorporation applicant acquired its plant and system from the Independent Construction Company, paying therefor \$25,000.00 par value of its stock, \$15,000.00 face value of its 5 per cent bonds and issuing its note for \$5,000.00. No other stock or bonds have been issued but the above amounts are now outstanding.

Applicant wishes to retire all bonds, satisfy its deed of trust which secures their payment, procure a reconveyance of its property and have the trustee under the deed of trust repay to it the \$1,153.98 now in the sinking fund in the hands of the trustee. All of the stockholders consent to the exchange and the holders of all of its bonds, except a single holder of bonds of the face value of \$200.00, who demands par and interest in cash. Under the sinking fund provision of the deed of trust the trustee is authorized to buy bonds from the lowest bidder, after advertising. Under the circumstances, applicant should be authorized to pay par and accrued interest in cash for said \$200.00 in bonds if that course becomes necessary. It expects, however, to sell \$200.00 par value of stock at par and use the proceeds to purchase \$200.00 face value of bonds at par if exchange of stock for bonds can not be made directly.

#### ORDER.

Downey Home Telephone and Telegraph Company, a corporation, having applied to the Railroad Commission for an order substantially to the effect of that set forth below, and a public hearing having been held upon said application and the commission finding that property to be procured by such issue of stock is reasonably required for the purposes specified in the order herein and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Downey Home Telephone and Telegraph Company be and it is hereby authorized to issue not to exceed 150 shares of its capital stock of the par value of \$100.00 per share at par, and use said stock or the proceeds thereof to retire the \$15,000.00 face value of its 5 per cent bonds heretofore issued; to obtain a release of the deed of trust given to secure the payment of applicant's said bonds, and a reconveyance to applicant by the trustee in said deed of trust of applicant's property described therein, and the repayment to applicant of all moneys now on deposit with said trustee in the sinking fund created by the terms of said deed of trust.

The authority herein contained is granted upon the following conditions:

1. Said stock shall be issued at a price which will net to applicant the par value thereof without discount or commission.
2. For any bonds purchased for cash applicant shall not pay in excess of par and accrued interest nor pay any commission in the transaction.
3. Downey Home Telephone and Telegraph Company shall keep separate, true and accurate accounts showing the issue of said stock and the acquisition of said bonds, and on or before the twenty-fifth day of each month it shall make verified reports to the Railroad Commission showing the stock issued and the bonds procured and any money which

may have been paid therefor during the preceding month and the disposition made of said bonds, all in accordance with this commission's General Order No. 24, which order in so far as applicable is made a part hereof.

4. The authority herein granted to issue stock and to purchase bonds shall apply only to such stock as shall have been issued and such bonds as shall have been acquired within ninety (90) days from date hereof.

Dated at San Francisco, California, this eighth day of January, 1918.

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DECISION No. 5021.

IN THE MATTER OF THE APPLICATION OF THE CORCORAN WATER AND GAS COMPANY FOR AN ORDER AUTHORIZING THE SALE OF FIVE THOUSAND DOLLARS PAR VALUE ADDITIONAL OF ITS BONDS.

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Application No. 3028.

*Decided January 9, 1918.*

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Applicant applies for permission to issue \$5,000.00 face value of its first mortgage bonds for the purpose of discharging indebtedness incurred through additions and betterments to its system and it appearing that certain portions of such indebtedness were incurred to discharge operating expenses and bond interest, which items are not properly capitalizable, application granted, provided the proceeds shall be used only for the purpose of discharging \$3,747.00 of the indebtedness listed, the balance of proceeds to be held in applicant's treasury to be expended only under supplemental orders of the commission.

*J. B. Mayer*, for Applicant.

BY THE COMMISSION.

**OPINION.**

This is an application of Corcoran Water and Gas Company of Corcoran, Kings County, for authority to issue \$5,000.00 face value of its first mortgage gold bonds and to use the proceeds to pay notes and accounts payable hereinafter set forth.

A public hearing in this matter was held at Corcoran by Examiner Westover.

In the Railroad Commission's Exhibit "A," Application No. 3027, relative to increase of rates, Assistant Engineer C. H. Loveland finds the cost of applicant's properties as of September 1, 1917, to have been \$30,026.53. From this amount he deducts \$3,470.00, representing the cost of replacements, leaving a net cost of \$26,596.53. In its decision of December 13, 1917, the commission authorized applicant to put into effect a schedule of rates which are designed to yield an 8 per cent return on \$24,094.00. The engineering department of the commission

finds that applicant from January 1, 1916, to September 1, 1917, expended \$15,078.98 for improvements to its system. The improvements comprise the erection of a 50,000-gallon tank upon an 80-foot steel tower, the installation of a new 6-inch centrifugal pump, the drilling of two 10-inch wells having a depth of 295 feet and the purchase and laying of 13,120 feet of main.

Against the \$15,078.98 of expenditures, the company, pursuant to Decision No. 4208, dated March 31, 1917, issued \$10,000.00 of bonds at 91, netting the company \$9,100.00. No securities have been authorized to be issued against expenditures aggregating \$5,978.98. Applicant's reports show that these expenditures are represented by notes and accounts payable and earnings invested in plant. It reports notes and accounts payable as follows:

<i>Notes Payable.</i>				
Payee	Date	Term	Interest	Amount
First National Bank	Jan. 15, 1917	Demand	8%	\$400 00
First National Bank	Sept. 6, 1917	Demand	8%	500 00
First National Bank	Sept. 8, 1917	Demand	8%	600 00
First National Bank	Sept. 22, 1917	Demand	8%	500 00
Cross Hardware Co.	Oct. 1, 1917	Demand	8%	588 64
Total notes payable				\$2,588 64

<i>Accounts Payable.</i>	
Boynton Company	\$762 45
Crane Company	100 00
Wilson Machinery Company	706 91
T. J. Eastman	200 00
San Joaquin Light and Power Corporation	147 00
California Hydraulic Engineering Company	300 00
Total accounts payable	2,216 36
Grand total	\$4,805 00

Applicant reports that the \$600.00 note, dated September 8, 1917, payable to the First National Bank, and \$147.00 due San Joaquin Light and Power Corporation, represent indebtedness incurred to pay operating expenses. On September 22, 1917, applicant issued its note for \$500.00 to the First National Bank. A statement filed with the commission, showing in detail the purposes for which the moneys obtained through the issue of notes were expended, shows that \$306.00 of the moneys obtained through the issue of the \$500.00 note, dated September 22, 1917, was used to pay bond interest. The payment of bond interest does not appear to be a proper capital charge. Deducting the indebtedness, which the company reports represents operating expenses, together with the \$306.00 of interest from total indebtedness of \$4,805.00, leaves \$3,747.00 of indebtedness, which may be paid through the issue of bonds.

Applicant, as stated, asks authority to issue \$5,000.00 face value of its bonds. Of these bonds, \$2,500.00 will mature on April 1, 1926, and a like amount on April 1, 1927. Applicant reports that it has made arrangements to sell the bonds at not less than 85 per cent of their face value, or on an approximate 8 per cent basis. While the order herein will authorize applicant to issue the full \$5,000.00 of bonds, it will provide that any proceeds remaining after the payment of \$3,747.00 of indebtedness properly chargeable to capital account, shall be expended by applicant only for such purposes as the commission may hereafter authorize in a supplemental order.

#### ORDER.

Coreoran Water and Gas Company having applied to the Railroad Commission for authority to issue \$5,000.00 face value of its 6 per cent first mortgage gold bonds, as hereinbefore more fully set forth; and a public hearing having been held, and this commission finding that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified in this order, and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted subject to the conditions hereinafter set forth,

*It is hereby ordered* that Coreoran Water and Gas Company be and it is hereby authorized to issue and sell at not less than 85 per cent of their face, plus accrued interest, \$5,000.00 of its 6 per cent first mortgage bonds, upon the following conditions and not otherwise:

1. The proceeds of the bonds herein authorized to be issued shall be used by applicant to pay the following indebtedness:

Payee	Date	Term	Interest	Amount
First National Bank	Jan. 15, 1917	Demand	8%	\$400 00
First National Bank	Sept. 6, 1917	Demand	8%	500 00
First National Bank	Sept. 22, 1917	Demand	8% on account	194 00
Cross Hardware Co.	Oct. 1, 1917	Demand	8%	583 64
Boynton Company	-----			\$762 45
Crane Company	-----			100 00
Wilson Machinery Co.	-----			706 91
T. J. Eastman	-----			200 00
California Hydraulic Engineering Company	-----			300 00
				2,069 36
				\$3,717 00

Any balance remaining from the sale of said bonds, after the payment of the foregoing indebtedness shall be held in applicant's treasury and expended only for purposes hereafter authorized by the commission in a supplemental order.

2. Coreoran Water and Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and

on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted applicant to issue bonds is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.

4. The authority herein granted applicant to issue bonds shall apply only to such bonds as shall have been issued on or before July 31, 1918.

Dated at San Francisco, California, this ninth day of January, 1918.

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DECISION No. 5022.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING IT TO SELL TO THE UNITED STATES GOVERNMENT CERTAIN TELEPHONE PROPERTY LOCATED IN THE YOSEMITE NATIONAL PARK, CALIFORNIA.

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Application No. 3422.

*Decided January 9, 1918.*

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The government having taken over the operation of telephone service in the Yosemite National Park, applicant is authorized to transfer certain poles and wires used in connection with such service, to the government for the nominal consideration of \$10.00.

BY THE COMMISSION.

**OPINION.**

On October 27, 1917, the Railroad Commission authorized The Pacific Telephone and Telegraph Company to discontinue its toll stations known as Camp Ahwahnee and Yosemite, located within Yosemite National Park, California, the United States Government, under the jurisdiction of the Secretary of the Interior, having requested the company to discontinue all service within the Yosemite National Park for the reason that the government is building its own lines and desires to control all telephone service within said park.

For the purpose of establishing communication between points within Yosemite National Park and outside points connected with the toll system of The Pacific Telephone and Telegraph Company, it is proposed to connect the government lines with the lines of The Pacific Telephone and Telegraph Company at El Portal.

In accordance with the authorization herein referred to, applicant has discontinued its service at these two stations and as far as its responsibility to the public is concerned, it has no further use for the line which it formerly maintained in operating these stations. The government, however, has not yet completed its lines within the park, and, pending their completion, is continuing the use of applicant's line between El Portal and these two stations, a total distance of approximately fourteen miles. Applicant is, accordingly, asking the authority of the Railroad Commission for the transfer of this line to the government for the nominal consideration of \$10.00.

The property which it is proposed to sell and transfer to the government is described in the petition as follows:

- 108 poles,
- 28.01 miles of line wire,
- 23 cross-arms equipped,
- 9 guy rods,
- 13 guy slugs,
- 22 single anchor guys,
- 1 single head guy,
- 3 guy rod boxes.

The petition sets forth that the original cost of this property can not now be ascertained, but that the present value of the same is \$2,100.00.

It appears to the Railroad Commission that the public interest will be subserved by the granting of this application and that this is not a case in which a public hearing is required.

#### ORDER.

Application having been filed with the Railroad Commission by The Pacific Telephone and Telegraph Company for an order authorizing it to sell to the United States Government certain telephone property located in Yosemite National Park, California, and it appearing to the Railroad Commission that the public interest will be subserved thereby and that this is not a case in which a public hearing is necessary,

*It is hereby ordered* by the Railroad Commission of the state of California that the application herein be and it is hereby granted.

By order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this ninth day of January, 1918.



## Decision No. 5023.

IN THE MATTER OF THE APPLICATION OF J. L. BASS TELEPHONE COMPANY FOR PERMISSION TO SELL AND OF D. H. BRIGGS FOR PERMISSION TO BUY A TELEPHONE LINE FROM BAIRD TO DELAMAR, SHASTA COUNTY, CALIFORNIA.

Application No. 3402.

*Decided January 9, 1918.*

BY THE COMMISSION.

**OPINION.**

J. L. Bass Telephone Company, one of the petitioners in this proceeding, owns a telephone line consisting of approximately twelve miles of metallic circuit strung principally upon trees, and at present having eight telephone stations connected at and between Baird and Delamar in Shasta County.

The line was formerly operated by J. L. Bass, who, by reason of ill health, transferred its operation to Annie L. Bass. The said Annie L. Bass is now teaching school, and, having disposed of other business interests in Baird heretofore conducted in connection with the operation of this telephone line, and being unable longer to give the time and attention necessary to the further operation of this telephone line, desires authority to sell and transfer it for the sum of \$200.00, payable in eight monthly payments of \$25.00 each, to D. H. Briggs.

No change in the present method of operation or in rates is contemplated. Neither the applicants nor the Railroad Commission are informed as to the original cost or present value of this property, but for the purpose of sale and transfer, there appears to be no reasonable objection to the consideration named by the applicants in the agreement of sale, which is attached to and made a part of the petition.

By reason of his other business interests in Baird and for financial reasons, it appears that the proposed purchaser is better able to operate this line than the present owners. We are of the opinion that the public interest will be subserved by the granting of this application, and that this is not a case requiring a public hearing.

**ORDER.**

Application having been filed with the Railroad Commission by J. L. Bass Telephone Company to sell, and by D. H. Briggs to buy, a certain telephone line extending from Baird to Delamar, Shasta County, California, as set forth in the preceding opinion, and it appearing to the Railroad Commission that the public interest will be subserved by the granting of this application, and it further appearing that this is not a case in which a public hearing is necessary,

*It is hereby ordered* by the Railroad Commission of the state of California, that the application herein be and it is hereby granted: provided, that within thirty days from the date of its execution, a certified copy of the instrument of transfer, transferring the property herein authorized to be sold, shall be filed with the Railroad Commission.

By order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this ninth day of January, 1918.

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Decision No. 5024.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC CAR DEMURRAGE BUREAU FOR AUTHORITY TO ELIMINATE RULE NO. 10 FROM CALIFORNIA TARIFF NO. 2-E, C. R. C. NO. 7, LEAVING NO ALLOWANCE IN FREE TIME OR DEMURRAGE ON ACCOUNT OF WEATHER CONDITIONS.

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Application No. 3407.

*Decided January 9, 1918.*  
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BY THE COMMISSION.

**ORDER.**

The Pacific Car Demurrage Bureau, by its manager, R. C. Munholland, filed an application with this commission asking permission to cancel Rule No. 10, carried in Car Demurrage Tariff No. 2-E, C. R. C. No. 7, and substitute therefor the following rule:

“Weather: No allowance in free time or demurrage will be made on account of weather conditions.”

Whereas this commission is of the opinion that owing to the car shortage due to the war the application should be granted without a formal hearing.

*It is hereby ordered* that the Pacific Car Demurrage Bureau be and the same is hereby authorized to cancel Rule No. 10 of Demurrage Tariff No. 2-E, C. R. C. No. 7, and substitute therefor the following:

“No allowance in free time or demurrage will be made on account of weather conditions.”

The commission reserves the right to make such further orders relative to this application as in the future may appear to be right and proper.

Dated at San Francisco, California, this ninth day of January, 1918.

DECISION No. 5025.  
GEO. H. COMPTON ET AL.

vs.

RICHFIELD LAND COMPANY AND RICHFIELD WATER COMPANY.

Case No. 995.

*Decided January 9, 1918.*

- A land company which constructs and operates a water distributing system, selling water to all who apply for the same, upon a specified tract to which its water is dedicated, is a public utility under the provisions of section 2 of the Public Utilities Act and chapter 80 of the laws of 1913, irrespective of the fact that it was the original intention of the land company to have such water system ultimately operated as a mutual company serving its stockholders only.
- A land company which constructs and operates a water distributing system in connection with its land operations can not turn its water system over to another company which it organizes for such purpose without having first secured the permission of the Railroad Commission. Any transfer of such a nature without the proper authorization is null and void.
- Defendant land company found to be a public utility and it is directed to file, on or before January 30, 1918, detailed plans covering improvement and repairs to its system so as to enable it to render adequate and efficient service to its consumers, also to file a schedule of rules and regulations governing its operation.

*W. A. Fish and Robert D. Kellogg*, for Complainants.  
*J. D. Lederman*, for Defendants.

BY THE COMMISSION.

**OPINION.**

Complaint is made of the service of irrigation water on "Richfield Lands" near Richfield, Tehama County. The most important question is raised by the motion of defendants to dismiss the complaint upon the ground that the commission has no jurisdiction, because, as it is alleged, neither defendant is a public utility.

**Pleadings.**

The amended complaint alleges that Richfield Land Company purchased and subdivided a tract of about 4,800 acres of land in Tehama County now known as "Richfield Lands," and constructed a water system to irrigate said lands; that about 2,400 acres thereof have been sold, of which about 1,100 acres are under irrigation; that there is an inadequate supply of water for even the present acreage, with resultant losses to irrigators; that the available supply is not equitably distributed in proportion to acreage and with great losses through seepage; that the flat rate of \$2.00 per acre provided by contract is improperly applied to lands not actually irrigated; and that defendants threaten to refuse to deliver water until such charge be paid. The

prayer is that defendants supply adequate service of the amount of water specified in its contracts, furnish additional water at equitable rates to be fixed and that they be restrained from charging for water for lands not irrigated.

The answer to the amended complaint denies practically all of the material allegations, except the incorporation of defendants, the subdivision and sale of the lands, and that 1,100 acres are under irrigation, and contains a motion to dismiss the complaint for lack of jurisdiction.

Hearings were held by Examiner Westover at Tehama and San Francisco.

Prior to the first hearing, defendants made an offer, based on their engineer's report, hereinafter referred to, to the effect that the land company would pay to the water company \$16,000.00 to fully complete the system and turn over the management to the users. This offer was refused by complainants.

#### Jurisdictional Facts.

The facts as shown by the evidence are as follows:

Defendant, Richfield Land Company, was incorporated in October, 1911, with an authorized capital stock of \$300,000.00, divided into 3,000 shares of the par value of \$100.00 each, for the purpose of acquiring and dealing in real estate, stocks and bonds, lending and borrowing money, conducting farming operations, merchandising and doing any and all other things necessary or convenient for the accomplishment of said purposes. It is not expressly authorized by its articles of incorporation to engage in the water business. It subsequently acquired and subdivided a tract of about 4,800 acres of land now known as Richfield Lands, located near Richfield, Tehama County.

Richfield Water Company was incorporated in November, 1911, with a capital stock of \$48,000.00, divided into 4,800 shares of the par value of \$10.00 per share, for the purpose of engaging in the business of developing, producing and distributing water for domestic, industrial, manufacturing and irrigation purposes and constructing, maintaining and operating the necessary plants, canals and appliances therefor. The articles do not indicate an intent to limit the service of water to stockholders of the company nor to serve water without profit or upon a mutual basis. The articles are similar to those of the usual water company organized to sell water for profit to the general public. However, the by-laws show an intent to limit service to stockholders, and provide in Article XV that "stock shall be issued only to owners of the lands or portions of the lands" described as Richfield Lands; that shares shall be "appurtenant to the lands for which they are issued \* \* \* which lands shall be described in the certificates, \* \* \*

and shares of stock shall be transferable only with said lands, and pass as appurtenant thereto."

About January, 1912, a contract was made providing that defendant land company drill wells, install pumping plants and construct canals and ditches necessary for irrigation of the so-called "Richfield Lands," and that subsequently the land company would convey to the water company the necessary sites to be selected by the land company for wells and pumping plants, rights of way for canals and ditches and all water rights owned or controlled by the land company with the plant and system. In consideration therefor, the water company agreed to deliver to the land company one share of its authorized capital stock for each acre of Richfield Lands placed under irrigation, the stock to be delivered from time to time as the irrigation ditches and supply system were extended, and the stock to be delivered by the land company to purchasers of Richfield Lands.

Pursuant to the agreement defendant land company constructed and put into operation a water system and operated the same. On August 3, 1916, it purported to execute and deliver to defendant water company a deed conveying the plant and system to the water company. During all of this time Richfield Land Company, which constructed and owned the water system, was engaged in delivering water for compensation generally within the Richfield Lands. The consumers to whom the water was delivered were not stockholders of the Richfield Land Company. They paid for the water at regular rates, which were charged and collected by the land company in its name. It was the practice of the company in selling lands within the Richfield tract to enter into a contract, under the terms of which the company agreed to sell and deliver to the purchaser a certain number of shares of the capital stock of the Richfield Water Company. The entire plan unquestionably contemplated that ultimately the supply of water should be upon a mutual basis, the system being owned by the water company and not the land company, and the water being delivered to stockholders of the water company. Whatever the ultimate purpose was, however, the evidence clearly shows, that as long as the Richfield Land Company owns and operates this water system it is not doing so as a mutual water company, but is doing so as a public utility. The evidence clearly establishes the fact that the Richfield Land Company undertook to supply water generally for compensation within that tract known as the "Richfield Lands," and that it dedicated its water generally to the public on the "Richfield Lands," and we find these to be facts. The facts establish the status of the Richfield Land Company as a public utility under the provisions of section 2 of the Public Utilities Act and chapter 80 of the statutes of 1913. This being so,

there could be no lawful conveyance of its public utility property to the water company without the consent of the Railroad Commission first being had under section 51 of the Public Utilities Act. No application to the Railroad Commission for authority so to transfer this water system has ever been made, and no consent of the Railroad Commission to any such transfer has been granted.

We believe the conclusion to be irresistible, therefore, that the land company is a public utility, and that the purported conveyance of August 3, 1916, is void under the provisions of section 51 of the Public Utilities Act.

We pass now to a consideration of the question of service.

Heretofore defendant has attempted to deliver water on the demand of individual consumers. This caused confusion and delay in the deliveries with the consequent poor service. The ditches are in poor condition due to deferred maintenance, improper care and the presence of gopher holes in the banks. Excessive seepage occurs due to this condition and also in sandy soils through which the ditches extend. Complainants contend that water is not delivered to the highest point of the land and that discrimination exists in the delivery. It is clearly shown that the service is poor; that with the system in its present condition and with the methods of operation in vogue an adequate supply of water can not be delivered.

Mr. H. T. Cory, engineer for defendant, and C. H. Loveland, assistant hydraulic engineer for the commission, substantially agree as to the remedies for this condition. These are (1) establishment of a rotation schedule of deliveries, (2) lining approximately  $2\frac{1}{2}$  miles of canal, (3) construction of two flumes of standard design to replace flumes of unsatisfactory type, and (4) thoroughly cleaning and repairing canals and structures. By making these repairs and improvements and delivering water in a businesslike manner the water supply will be conserved and adequate, and satisfactory service can be rendered.

The amended complaint filed April 9, 1917, prays for the establishment of a rate schedule. After carefully considering this matter it appears advisable to defer the rate fixing until such time as the service is improved. The commission would then be enabled to consider all proper costs under full service conditions.

#### ORDER.

Public hearings having been held in the above-entitled proceeding, briefs filed and the matter being now ready for decision,

*It is hereby ordered* as follows:

(1) Richfield Land Company is hereby ordered to deliver to its consumers an adequate and sufficient quantity of water for irrigation.

(2) Richfield Land Company is hereby directed to file with the Railroad Commission on or before January 30, 1918, a schedule of rules and regulations providing therein, among other things, for a schedule of deliveries by rotation.

(3) Richfield Land Company is hereby ordered to reconstruct and repair its plant in accordance with the directions contained in the opinion which precedes this order.

(4) Richfield Land Company is hereby ordered to file detailed plans on or before January 30, 1918, of the improvements and shall proceed with due diligence thereafter to execute these plans.

(5) Richfield Land Company is hereby directed to file with this commission each month a detailed statement of construction and repairs until their completion.

*It is hereby further ordered* that the complaint be dismissed as to defendant Richfield Water Company.

Dated at San Francisco, California, this ninth day of January, 1918.

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DECISION No. 5033.

IN THE MATTER OF THE APPLICATION OF THE TITLE INSURANCE AND TRUST COMPANY AND THE BOARD OF PUBLIC SERVICE COMMISSIONERS OF THE CITY OF LOS ANGELES FOR AN ORDER AUTHORIZING THE SALE OF PUBLIC UTILITY PROPERTY.

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Application No. 3420.

*Decided January 11, 1918.*

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BY THE COMMISSION.

**ORDER.**

Title Insurance and Trust Company, a corporation, having applied for authority to transfer to the board of public service commissioners of the city of Los Angeles a certain public utility water system used to supply about fifty persons in the territory in the city of Los Angeles lying between Pico street and Glencoe avenue and easterly of Bertrami avenue, the district being known as Pico Boulevard Tract, the conveyance to be made in accordance with the form of deed attached to the application in this proceeding and marked Exhibit "B," in which the property to be transferred is described as follows:

All water pipes, service connections, fittings, meters, appliances, appurtenances and extensions constituting and pertaining to the water distribution system owned by the Title Insurance and Trust Company, and used and operated by said Title Insurance and Trust Company for supplying water in the territory within the city of Los Angeles, lying between Pico street and Glencoe avenue

and easterly of Bertrami avenue, in that certain tract known as the Pico Boulevard Tract in the city of Los Angeles; and being more particularly described as Tract No. 1740, as per map thereof recorded in Book 21, pages 146 and 147 of Maps, Records of said county.

RIGHT OF WAY.

All franchises and rights of way now or hereafter owned or held by or for said Title Insurance and Trust Company, and used or necessary in connection with the construction or operation of said works, or any part thereof, or any extension of said works;

MAPS AND RECORDS, ETC.

All maps and records pertaining to said water system and relating to pipes, services, consumers, property, rates, etc.

And the board of public service commissioners of the city of Los Angeles, having joined in the application and the commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted.

*It is hereby ordered* that the application herein be and the same hereby is granted; provided, that the authority herein granted shall apply only to such conveyance of property as may be made on or before January 31, 1918; and provided, further, that within ten days after the conveyance is made a copy of the deed of conveyance shall be filed with the Railroad Commission.

Dated at San Francisco, California, this eleventh day of January, 1918.

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DECISION No. 5035.

IN THE MATTER OF THE APPLICATION OF NEEDLES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF NOTES.

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Application No. 3410.

*Decided January 11, 1918.*

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Applicant granted permission to issue for a period of not to exceed two years, its 6 per cent promissory notes in an aggregate amount of \$12,000.00, such notes to be sold at not less than par, the proceeds to be used for the purpose of discharging two outstanding demand notes totaling \$7,500.00, the balance to discharge a portion of its outstanding accounts.

*R. S. Masson*, for Applicant.

BY THE COMMISSION.

OPINION.

Needles Gas and Electric Company applies for an order authorizing the issue of \$12,000.00 in notes and the use of the proceeds to refund



two 6 per cent demand notes for \$4,500.00 and \$3,000.00, respectively, which are described in the order, and to pay \$4,500.00 of its outstanding accounts amounting to \$7,850.55.

A public hearing upon the above application was held by Examiner Westover at Los Angeles.

Applicant is engaged in the business of supplying gas, electric energy and telephone service in and about Needles, San Bernardino County. It was organized in December, 1911, with an authorized capital stock of \$200,000.00, divided into 2,000 shares of the par value of \$100.00 each, half of which are outstanding. Applicant's annual reports show that \$49,900.00 par value thereof is owned by E. H. Rose, and \$49,900.00 par value by R. S. Masson. Of the outstanding accounts amounting to \$7,850.55, about \$5,000.00 is for money advanced by these stockholders. Applicant has an authorized bonded indebtedness of \$100,000.00, all of which was issued, but \$30,000.00 face value of which has been returned to the treasury, leaving \$70,000.00 face value of bonds now outstanding.

Applicant reports that between April 1, 1912, and October 31, 1917, \$43,648.21 was expended for extensions and improvements chargeable to capital account under the Railroad Commission's classification of accounts. The testimony shows that of this amount \$25,000.00 has been voluntarily contributed by stockholders, about \$12,500.00 has been borrowed, about \$2,850.55 is represented by outstanding accounts, and the remainder, about \$3,297.66, has been paid from earnings.

Applicant reported on December 31, 1916, 574 electric consumers, 380 gas consumers and 162 telephone subscribers. It shows surplus earnings of \$310.72 for 1914, \$6,141.58 for 1915, and \$5,067.03 for 1916, after paying operating expenses, taxes, interest and other fixed charges. It now hopes to be able to pay all of the \$15,350.55 in outstanding notes and accounts from earnings within the next two years, using, however, its current unappropriated depreciation reserve.

No arrangement has been made for placing the notes in question, but applicant expects to be able to place them with its bankers. It proposes to let the present demand notes run until it is ready to pay them, if that course is satisfactory to the holders; otherwise it will refund them as stated above. It wishes authority to issue all or any part of the \$12,000.00 in notes and reissue them during the total period of two years.

#### ORDER.

Needles Gas and Electric Company having applied to the Railroad Commission for authority to issue \$12,000.00 in notes, as hereinafter described, and use the proceeds thereof for the purposes specified in the order herein, and a public hearing having been held upon said

application, and it appearing to the commission that the property to be procured by the issue of said notes is reasonably necessary for the purposes specified in the order and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Needles Gas and Electric Company be and it is hereby authorized and empowered to issue its promissory notes in amounts not exceeding the aggregate sum at any time of \$12,000.00, and use the proceeds thereof to refund the following demand notes:

Dated	Payee	Amount
November 16, 1916	Menahan and Murphy Bank.....	\$1,500.00
September 27, 1917	Farmers and Merchants Bank _ _ _ _ _	3,000.00
And to apply on \$7,850.55 accounts outstanding December 1, 1917	-----	4,500.00

The above authority is granted upon the following conditions:

1. All of said notes shall bear interest at a rate not exceeding 6 per cent per annum.

2. All of said notes shall be issued at a price which will net par to applicant without payment of discount or commission.

3. Applicant is authorized to issue said notes for such amounts, for such periods and to such payees as it may deem best, provided that the total amount of notes so issued shall at no time exceed the sum of \$12,000.00; and provided, further, that the aggregate term or terms for which said notes or either or any of them may be issued and remain outstanding shall not exceed the period of two years from date hereof.

4. Applicant shall keep accurate and complete accounts of the issue of said notes and the use of the proceeds thereof, and on the twenty-fifth day of each month shall make verified report in writing to the commission stating the issue and sale of said notes during the preceding month in which notes have been issued, the terms and conditions thereof, moneys realized therefrom, and the use and application of such moneys, all in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. This order shall not become effective until the fee provided by the Public Utilities Act has been paid.

Dated at San Francisco, California, this eleventh day of January, 1918.

## DECISION No. 5036.

IN THE MATTER OF THE APPLICATION OF PENINSULA SYNDICATE  
TO TRANSFER WATER PIPES IN GROUND TO THE BEAR GULCH  
WATER COMPANY.

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Application No. 3412.

*Decided January 11, 1918.*

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BY THE COMMISSION.

**ORDER.**

The Peninsula Syndicate, a corporation, having applied for authority to transfer to Bear Gulch Water Company, a corporation, certain pipe lines used to supply a number of householders in the tract known as North Fair Oaks Tract, located one mile north of Redwood City, San Mateo County, the conveyance to be made in accordance with the form of deed attached to the application in this proceeding, in which the property to be transferred is described as follows:

The water distribution system serving that certain real property situate, lying and being in the county of San Mateo, state of California, and known as North Fair Oaks Tract, subdivisions 1, 2 and 3, as the said subdivisions are shown and delineated upon maps thereof of record in the office of the County Recorder of the said county of San Mateo, the said distribution system hereby conveyed including four-inch pipes along and in Dumbarton avenue, two-inch pipes along and in Fourth, Fifth and Seventh avenues, one and one-quarter-inch pipes along and in Fifth avenue, and the present installed pipes in Dumbarton avenue and Fair Oaks avenue, together with all fittings and appurtenances not hereinbefore specifically mentioned.

Together with all franchises for the maintenance, operation and extension of the said system and the easements and rights of way in and along the streets, roads and roadways of the said real property and in and through all other real property in which the said pipes are located; and also, such rights of way for pipes and mains as the said party of the first part may have reserved, or may have in and through the said real property; and also, the right to operate, maintain and enlarge the said system over the remainder of the said subdivisions, and together with such rights of way and franchises as may be necessary and proper to enable the said party of the second part to extend the said system over the remainder of the said subdivisions.

And the Bear Gulch Water Company having joined in the application, and the commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that the application herein be and the same hereby is granted; provided, that the authority herein granted shall apply only to such conveyance of property as may be made on or before January 31, 1918; and provided, further, that within ten days after the conveyance is made, a copy of the deed of conveyance shall be filed with the Railroad Commission.

Dated at San Francisco, California, this eleventh day of January, 1918.

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DECISION No. 5037.

IN THE MATTER OF THE APPLICATION OF RICHMOND AND SAN RAFAEL FERRY AND TRANSPORTATION COMPANY FOR AUTHORITY TO ISSUE CAPITAL STOCK.

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Application No. 3376.

*Decided January 15, 1918.*

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Applicant, operating a ferry transportation line from Richmond to San Rafael, granted permission to issue 750 shares of its capital stock of the par value of \$100.00 per share, 666 shares to be issued at full face value covering equipment, additions and improvements to its system, the balance for additions and betterments as provided by supplemental orders of the commission.

*Jacobs & Oliver, by James Oliver, for Applicant.*

BY THE COMMISSION.

**OPINION.**

This is an application of Richmond and San Rafael Ferry and Transportation Company, operating a ferry system between Point Richmond and San Quentin Point, for authority to issue 750 shares of capital stock at par for additions and betterments constructed or to be constructed, as hereinafter more fully set forth.

The hearing in this matter was held before Examiner Encell at San Francisco on December 29, 1917.

Richmond and San Rafael Ferry and Transportation Company by Decision No. 2740, dated September 4, 1915 (Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 21), was authorized to issue on or before August 31, 1916, 750 shares of capital stock at par for the purpose of building a new ferryboat and to provide for other facilities. Applicant now represents that it was unable to complete the necessary financial arrangement for the sale of said stock and that no shares were issued under the authority heretofore granted.

The company now asks permission to issue 750 shares of stock at par for the following purposes:

To Olson-Mahony Lumber Company, or its nominees, for ferryboat "Charles Van Damme".....	659 shares
To Olson-Mahony Lumber Company, or its nominees, for pier construction at Richmond .....	15 shares
To Olson-Mahony Lumber Company, or its nominees, for pier construction at San Quentin.....	20 shares
For future additions and betterments, subject to supplemental order of the commission.....	56 shares

In Exhibit "D," attached to the petition herein, applicant reports assets and liabilities as follows:

<i>Assets.</i>	
Fixed capital .....	\$29,719 14
Piers, buildings, etc. ....	\$23,702 00
Franchises .....	5,000 00
Equipment .....	1,008 05
Current assets .....	15,487 96
Cash .....	\$1,929 75
Treasurer .....	13,336 75
Inventories .....	123 81
Accounts receivable .....	97 65
Unexpired insurance .....	288 57
Total assets .....	\$45,186 67
<i>Liabilities.</i>	
Capital stock outstanding .....	\$25,000 00
Accounts payable .....	6,049 63
Depreciation reserve .....	10,750 00
Deferred credit items .....	136 30
Surplus .....	3,500 74
Total liabilities .....	\$45,186 67

In Exhibit "C," attached to the petition herein, applicant reports its revenues and expenses from May 1, 1915, to October 31, 1917, as follows:

Operating revenues .....	\$75,019 65
Earnings from other sources .....	834 51
Total earnings .....	\$75,854 16
Operating expenses .....	61,553 42
Gross income .....	\$14,300 74
Less depreciation .....	10,750 00
Net income .....	\$3,550 74

Applicant reports that the ferryboat "Charles Van Damme" referred to in Decision No. 2740, dated September 4, 1915, has been constructed by Olson-Mahony Lumber Company. In Exhibit "A,"

attached to the petition herein, the cost of the boat, exclusive of interest, is reported at \$61,045.67. The interest up to November 1, 1917, is reported at \$4,867.70, making a total cost of \$65,913.37. The boat has been in operation for more than a year, although the title thereto has not been transferred to applicant. From a statement filed subsequent to the hearing, it appears that approximately \$2,000.00 of the \$4,867.70 of interest represents interest accrued during the period that the boat was being built and that the balance of the interest—\$2,867.70—represents interest accrued on the cost of the boat while it has been in operation. The testimony shows that applicant has paid no rent for the use of the boat. It now, however, proposes to issue stock against the \$4,867.70 of interest on the theory that the stock so issued would offset the payment of rent. Inasmuch as the boat has been in actual operation for more than a year, it occurs to the commission that the interest on the moneys expended in building the boat during the period that said boat has been in actual operation should be paid out of earnings and not charged to capital account. We believe that applicant should be permitted to issue 631 shares of its capital stock to the Olson-Mahony Lumber Company or its nominees in payment for the ferryboat "Charles Van Damme."

Applicant states that the additions to its piers at Richmond and San Quentin were made necessary by the increased size of the ferryboat "Charles Van Damme" over the boat previously in service. It appears that these additions are properly chargeable to capital account.

Applicant has in contemplation certain other enlargements and extensions, including new office structures on its two piers. It was not able at the hearing to furnish the commission with detailed information as to these improvements, nor as to the cost thereof. The order herein will provide that applicant may issue, at par, 84 shares of its stock to finance the construction of improvements, provided that no part of the proceeds obtained from the sale of said 84 shares of stock shall be expended for purposes other than those indicated in a supplemental order of the commission.

#### ORDER.

Richmond and San Rafael Ferry and Transportation Company having applied to the Railroad Commission for authority to issue 750 shares of capital stock of the par value of \$100.00 per share for the purposes set forth in the foregoing opinion, and a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified in the order, which

purposes are not reasonably chargeable in whole or in part to operating expenses or to income.

*It is hereby ordered* that Richmond and San Rafael Ferry and Transportation Company be and it is hereby authorized to issue, at par, 750 shares of its capital stock of the par value of \$100.00 per share, for the following purposes:

(a) To Olson-Mahony Lumber Company, or its nominees, for ferryboat "Charles Van Damme".....	631 shares
(b) To Olson-Mahony Lumber Company, or its nominees, for pier construction at Richmond.....	15 shares
(c) To Olson-Mahony Lumber Company, or its nominees, for pier construction at San Quentin.....	20 shares
(d) For future additions and betterments, subject to supplemental order of the commission.....	84 shares

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The 84 shares of stock herein authorized to be issued for future additions and betterments shall be issued by applicant at not less than the par value thereof for cash and the proceeds deposited in a special fund. No part of said proceeds is to be expended for purposes other than those specified by the commission in a supplemental order or orders in this proceeding.

2. Applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month, the company shall make verified reports to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted applicant to issue stock shall apply only to such stock as shall have been issued on or before December 31, 1918.

Dated at San Francisco, California, this fifteenth day of January, 1918.

## DECISION No. 5041.

IN THE MATTER OF THE APPLICATION OF MOUNTAIN LIGHT AND WATER COMPANY TO INSTALL METERS AND CHARGE METER RATES FOR ELECTRIC ENERGY FURNISHED TO BROOKDALE HATCHERY AT THE TOWN OF BROOKDALE, COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA.

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Application No. 3413.

*Decided January 15, 1918.*

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BY THE COMMISSION.

**ORDER.**

Whereas the applicant, Mountain Light and Water Company, has heretofore furnished electric energy to the Brookdale Hatchery at a flat rate of \$2.00 per month, payable annually; and

Whereas this rate is a deviation from the standard filed schedules of applicant, and contemplates service during certain limited times of the day only; and

Whereas the applicant intends to furnish on and after January 1, 1918, a 24-hour service each day to the residents of the town of Brookdale, and to install electric meters and charge meter rates to all users of electric energy in such town of Brookdale; and

Whereas applicant has asked for permission to install meters and charge its regular filed meter rates for electric energy served to the Brookdale Hatchery; and

Whereas the elimination of the deviation rate now enjoyed by the Brookdale Hatchery in consideration of the extended service as promised, would not, in our opinion, work an undue hardship on this consumer, and would put it upon the same basis as the other consumers of electricity in the same territory; and

Whereas it appears that a public hearing is not necessary in this matter, and for good cause appearing,

*It is hereby ordered* that Mountain Light and Water Company be and the same is hereby granted authority to install meters and charge standard meter rates for electric energy served to the Brookdale Hatchery from and after February 1, 1918.

Dated at San Francisco, California, this fifteenth day of January, 1918.



## DECISION No. 5018.

IN THE MATTER OF THE APPLICATION OF HAWTHORNE ELECTRIC  
AND WATER COMPANY FOR AUTHORITY TO ISSUE BONDS.

Application No. 1276.

*Decided January 17, 1918.*

The Railroad Commission refuses to authorize an issuance of \$25,000.00 face value of bonds secured by a deed of trust as a first lien upon the properties of a utility when such bonds are to be issued for the purpose of discharging an unsecured indebtedness in the sum of \$32,570.35 with accrued interest amounting to \$4,954.50, due the principal stockholder of the utility, particularly when the utility is unable to show that its revenues are sufficient to meet operating expenses, interest and depreciation.

Petition of applicant for permission to issue \$25,000.00 face value of bonds and execute a mortgage securing the same, for the purpose of discharging certain outstanding indebtedness, denied.

*Wm. L. Jarrett*, for Applicant.

EDGERTON, *Commissioner*.

**FIRST SUPPLEMENTAL OPINION.**

In its amended petition filed in the above-entitled matter, Hawthorne Electric and Water Company asks authority to issue \$25,000.00 face value of 6 per cent bonds for the purpose of paying its existing unsecured indebtedness and to execute a deed of trust to secure the payment of said bonds.

In the amended petition, filed August 11, 1917, applicant calls the commission's attention to Decision No. 1934, dated November 13, 1914, (Vol. 5, Opinions and Orders of the Railroad Commission of California, page 715).

The earnings of the company have been inadequate to pay interest on all of its indebtedness and provide for adequate depreciation. Applicant reports notes payable in the sum of \$32,570.35 and accrued interest amounting to \$4,954.50. This indebtedness is payable to U. M. Thomas, who on or about June 20, 1916, acquired all of applicant's outstanding capital stock except two shares necessary to qualify directors. He proposes to cancel all of the indebtedness provided the company issue to him \$25,000.00 of 6 per cent prior lien bonds. Applicant asks the Railroad Commission to grant it authority to convert an unsecured indebtedness held by the principal stockholder into a bonded debt, the payment of which is to be secured by a mortgage permitting the issuance of only \$25,000.00 face value of bonds.

U. M. Thomas submitted to the commission a statement in which he estimated the operating revenue for 1917 at \$7,200.00 and the operating expenses including taxes and interest on \$25,000.00 of bonds at \$3,820.89.

In his statement, he makes no allowance for depreciation, while his estimated operating expenses are far below what the company reported to this commission during the years 1914, 1915 and 1916.

The desire of the principal stockholder to convert an unsecured indebtedness into a secured indebtedness, and thus place himself in a position so that he can more readily withdraw from the active affairs of the company, does not alone justify the issue of bonds, which are a fixed interest-bearing obligation of the utility. It should be borne in mind that this issue of bonds would exhaust practically all of the possibility of further financing this company, and this would be a dubious procedure where the only purpose accomplished was to change the relationship of the principal stockholder and creditor to the property. Did the application involve the sale of the properties to a larger company which could provide further financing, it might well be that the purchasing company should be permitted to issue bonds to finance in whole or in part the purchase of these properties. This situation is however not presented by this application. Moreover applicant has not made a convincing showing of its ability to pay interest and sinking fund on bonds proposed and adequately provide for depreciation.

Inasmuch as I believe this application should be denied, it becomes unnecessary to refer to the provisions of applicant's proposed deed of trust.

I herewith submit the following form of order:

**• FIRST SUPPLEMENTAL ORDER.**

Hawthorne Electric and Water Company having applied to the Railroad Commission for authority to execute a mortgage and to issue \$25,000.00 face value of 6 per cent bonds, and a hearing having been held and the Railroad Commission being of the opinion that this application should be denied,

*It is hereby ordered* that the application of Hawthorne Electric and Water Company for authority to execute a mortgage and to issue \$25,000.00 face value of 6 per cent bonds be and the same is hereby denied.

The foregoing first supplemental opinion and first supplemental order are hereby approved and ordered filed as the first supplemental opinion and first supplemental order of the Railroad Commission of California.

Dated at San Francisco, California, this seventeenth day of January, 1918.

## DECISION No. 5049.

IN THE MATTER OF THE APPLICATION OF NEIL FORREST AND RED STAR STAGE LINE TRANSPORTATION COMPANY FOR PERMISSION TO SELL TO NEIL FORREST FIVE HUNDRED SHARES, AND TO THE PUBLIC FIVE HUNDRED SHARES, OF THE TREASURY STOCK OF RED STAR STAGE LINE TRANSPORTATION COMPANY.

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Application No. 3391.

*Decided January 17, 1918.*

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An individual or corporation purchasing an established automobile stage line, must secure, before it can operate the same, all necessary permits from the public authorities of the territory through which the line operates, together with a certificate from this commission, in accordance with the provisions of chapter 213, laws of 1917, provided the line which it purchases is not already operating under local permits which are transferable to parties other than the original grantee.

Red Star Stage Line Transportation Company, Inc., granted permission to issue \$10,000.00 par value of its capital stock, \$5,000.00 par value thereof to be issued to Neil Forrest in exchange for his stage line properties in operation between San Francisco and Half Moon Bay points, the balance to be expended for future additions and betterments in accordance with supplemental orders of the commission.

*A. P. Crist*, for Applicant.

*GORDON*, Commissioner.

**OPINION.**

In this application, as amended, Red Star Stage Line Transportation Company asks authority to issue 1,000 shares of its common capital stock of the par value of \$10.00 each. The company proposes to issue 500 shares of said stock in exchange for the properties described in Exhibit "B" attached to the petition herein and to sell 500 shares of said stock at not less than the par value thereof for the purpose of obtaining funds to purchase additional automobile equipment and increase its garage facilities.

Since 1915, Neil Forrest has been engaged in operating a stage line with automobiles for passenger and freight traffic between San Francisco, San Mateo, Half Moon Bay, San Gregorio, Pescadero, via the coast highway under the fictitious name of the Red Star Stage Line Transportation Company. On or about August 21, 1917, he caused to be organized the Red Star Stage Line Transportation Company, a corporation, with an authorized capital stock of \$50,000.00, divided into 5,000 shares of the par value of \$10.00 per share. The property he proposes to transfer to the corporation, more fully described in Exhibit "B", consists of five automobiles, tools and garage equipment and office furniture. For the twelve months ending November 30, 1917, he reports the gross earnings from the auto stage business at \$12,121.00,

the expenses at \$7,805.53, leaving a net income of \$4,315.56. The expenses include no allowance for depreciation.

As said, Neil Forrest proposes to sell and transfer his automobiles, equipment and business to the Red Star Stage Line Transportation Company in exchange for \$5,000.00 of stock, which according to the testimony is the reasonable value of the property. From the testimony, it appears that he intends to retain control of the corporation if this application is granted and through the medium of the corporation, the ownership of the properties. He believes that the transfer of the properties to a corporation will enable him to more readily finance the purchase of equipment and the improvement of the service.

In the original petition herein, applicant asked authority to issue and sell at not less than par, \$20,000.00 of its common capital stock. At the hearing held on January 7, 1918, the petition was amended. The company now desires to offer for sale not more than \$5,000.00 of its capital stock. Mr. Neil Forrest testified that he was unable at this time to advise the commission as to the specific purposes for which the proceeds from the sale of \$5,000.00 of stock will be used. In general, the proceeds will be used to purchase additional equipment and to enlarge the garage facilities. It is obvious that until the Red Star Stage Line Transportation Company has decided upon the specific purposes for which it will expend these moneys the commission can not make a final order in this proceeding. I am willing to recommend that applicant be granted authority to issue and sell not exceeding \$5,000.00 of its stock at not less than par, provided that it deposit the proceeds in a special fund and not expend any part thereof otherwise than as authorized by the commission in a supplemental order or orders herein.

Applicant to date has not obtained the necessary authority to conduct the auto stage business of Neil Forrest. It has obtained from the commission no certificate of public convenience and necessity.

I herewith submit the following form of order:

#### ORDER.

Red Star Stage Line Transportation Company having applied to the Railroad Commission for authority to issue \$10,000.00 par value of its common capital stock, and a public hearing having been held, and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

*It is hereby ordered* that Red Star Stage Line Transportation Company be and it is hereby granted authority to issue \$10,000.00 par value of its common capital stock, subject to the following conditions:

1. Stock in the amount of \$5,000.00 may be issued to Neil Forrest in exchange for the automobile equipment and properties described in Exhibit "B" attached to the petition herein.

2. Stock in the amount of \$5,000.00 may be sold by applicant at not less than the par value thereof for cash, provided that it deposit the proceeds derived from such sale with some banking institution and not expend any part thereof otherwise than in accordance with the terms and conditions of a supplemental order or orders of this commission.

3. The authority herein granted shall not become effective until Red Star Stage Line Transportation Company, a corporation, has obtained all necessary permits from public authorities and a certificate of public convenience and necessity from the Railroad Commission, as provided in chapter 213, laws of 1917.

4. Red Star Stage Line Transportation Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to issue stock shall apply only to such stock as may be issued on or before October 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this seventeenth day January, 1918.

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DECISION No. 5051.

A. S. POOL ET AL.

*vs.*

MOKELUMNE RIVER POWER AND WATER COMPANY.

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Case No. 1138.

*Decided January 17, 1918.*

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The Railroad Commission has no jurisdiction over the purity of water delivered by utilities subject to its jurisdiction, such matter resting with the State Board of Health. Complaint as to purity of water of defendant company dismissed.

Defendant directed to install, within ninety days, suitable measuring weir, clean and repair its laterals, flumes and reservoir and report to the commission ten days after the completion of such work.

*Chas. P. Snyder*, for Complainants.

*Frank J. Solinsky*, for Defendant.

BY THE COMMISSION.

OPINION.

The issues raised by the pleadings are whether defendant properly maintains its ditches, flumes, reservoirs and works to furnish a sufficient supply of water for irrigation and domestic use in and about Valley Springs, Calaveras County, and whether the water furnished is pure and healthful.

A public hearing in the matter was held by Examiner Westover at Valley Springs.

Defendant is a corporation which owns and operates a canal by which water is diverted from the south fork of the Mokelumne River at a point in the southwest quarter of section 16, township 6 north, range 13 east, and terminates at a point near Wallace in section 14, township 4 north, range 9 east. There are several reservoirs along the canal and laterals leading from it. All of the works are located in Calaveras County.

The water for use in Valley Springs is diverted from the main canal at a point about two miles northerly from that place and is brought in open ditch, flume and pipe to an earth reservoir near the town. It is in testimony that the main canal has a capacity of about 600 miner's inches to the point where water is diverted to the Valley Springs reservoir; that the amount of water near the head of the canal in October, 1917, varied from 460 to 560 miner's inches, and that loss at times is practically this latter amount.

It appears that in addition to natural loss of water from the system, there is a considerable waste by irrigators and that this is made possible by lax methods in measurement and distribution of the water sold, all of which is a measurement rate. Accurate measurement, better maintenance of ditch banks and repair of leaky flume and pipe will add largely to the otherwise available supply during seasons of shortage. It appears also that the reservoir can not be drained and so cleaned, and that grass and weeds have been allowed to accumulate in the lateral leading to the reservoir. The reservoir is enclosed by two fences, the outer one of which encloses about fourteen acres of land. These fences appear to have been out of repair at times, so that cattle gained entrance to the enclosure.

The question of the healthful quality of the water is one to be passed upon by the State Board of Health. Measures tending to improve the service are provided in the order.

**ORDER.**

A public hearing having been held in the above-entitled case, evidence having been taken and the matter having been submitted and being now ready for decision.

*It is hereby ordered* that defendant, within ninety (90) days from date, install in Valley Springs lateral and in all turnouts therefrom suitable measuring weirs of a design to be approved by the commission; clean out and repair said lateral; clean out Valley Springs reservoir; provide suitable means for hereafter cleaning said reservoir, and repair the fences surrounding it.

*It is further ordered* that within ten (10) days after completion of said improvements defendant submit to the commission a statement in detail showing what improvements have been installed and what maintenance work has been done and the cost of each thereof.

*It is further ordered* that in so far as complaint relates to purity of Valley Springs water supply said complaint is dismissed.

Dated at San Francisco, California, this seventeenth day of January, 1918.

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**DECISION No. 5053.**

IN THE MATTER OF THE APPLICATION OF A. W. BRANDT AND CHEW CHONG FOR AUTHORITY TO OPERATE AUTO STAGE LINE BETWEEN STOCKTON AND THE CITY OF TURLOCK.

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Application No. 3409.

*Decided January 17, 1918.*

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The Railroad Commission, while recognizing the public demand for automobile transportation service, will not grant a certificate to an applicant who desires to enter such service over an established route in competition with a company which is already rendering efficient and adequate service. Petition of applicants for a certificate permitting the establishment of an automobile transportation service between Stockton and Turlock, denied.

*B. M. Bainbridge and D. P. Eicke*, for Applicants.

*J. P. Snyder*, for Star Auto State Association, Protestant.

GORDON, *Commissioner*.

**OPINION.**

A. W. Brandt and Chew Chong, partners in business, petition the Railroad Commission to make its order declaring that the public convenience and necessity require the operation by petitioners of an automobile stage line as a common carrier of passengers and baggage between Stockton and Turlock and intermediate points.

A public hearing was held at Stockton on January 15, 1918.

Petitioners propose to furnish service by the use of a seven-passenger Oldsmobile auto stage and to operate two round trips per day between Stockton and Turlock, charging fares in accordance with schedule filed with the application in this proceeding.

Applicants have operated three round trips over the proposed route and averaged five passengers per trip. A witness for applicants testified that on Saturdays he had difficulty in securing accommodation between Modesto and Turlock on account of crowded stages and that he had been obliged to wait as long as two hours to obtain a seat.

Charles Wade, president and manager of the Star Auto Association, testified as to the conditions of traffic on the proposed route and as to the ability of his association to care for the public demand for automobile stage service between Stockton and Turlock. The Star Auto Association have schedules filed with the Railroad Commission which provide for 21 round trips daily between Stockton and Modesto and 29 round trips daily between Modesto and Turlock. During the month of November, 1917, a total of 8,691 $\frac{1}{2}$  passengers were handled between Stockton and Modesto and intermediate points, and a total of 5,112 passengers were handled between Modesto and Turlock. The average seating capacity of the cars used on the Stockton-Modesto run is eight passengers and the average seating capacity of the cars used on the Modesto-Turlock run is seven passengers. The total monthly carrying capacity by the use of one car on each scheduled run is 10,080 passengers on the Stockton-Modesto line and 12,180 passengers on the Modesto-Turlock line. During the month of November, 1917, the Stockton-Modesto line was used only to the extent of 86.2 per cent of its capacity and the Modesto-Turlock line to 41.97 per cent of its capacity. In case of loads offering in excess of the capacity of a car assigned to a scheduled trip, it is the custom to run additional cars to care for the excess load and that every passenger may be provided with a seat. The Star Auto Association maintain extra cars at terminals which are available to care for excess loads when same offer for movement. The president of the Star Auto Association stated that the association has been able for the three months last past and is now able to handle all passengers desiring transportation by auto stage between Stockton and Turlock by running additional cars whenever more passengers offer themselves than can be accommodated by the regularly scheduled cars.

The commission has repeatedly recognized the public demand for automobile passenger service but has also held that the public necessity and convenience should be served by responsible agencies and that such agencies when established and rendering adequate and satisfactory service to the public should receive consideration as against



applicants whose principal showing for the issuance of a certificate of public convenience and necessity is their desire to enter the transportation field over established routes.

The Star Auto Association is equipped with a sufficient number of cars to satisfactorily handle the passenger traffic desiring transportation by automobile between Stockton and Turlock and there was no evidence presented at the hearing in this proceeding that would justify an order granting the petition of the applicants.

I recommend that the application be denied and submit the following form of order:

**ORDER.**

A. W. Brandt and Chew Chong, partners in business, having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile stage line between Stockton and Turlock as a common carrier of passengers and baggage, a public hearing having been held, the matter having been duly submitted and the commission being fully advised,

The Railroad Commission hereby declares that public convenience and necessity do not require the establishment of an automobile stage line as a common carrier of passengers and baggage between Stockton and Turlock by the petitioners herein.

*It is hereby ordered* that this application be and the same hereby is denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this seventeenth day of January, 1918.

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DECISION No. 5055.

WATER USERS ASSOCIATION OF THE WILLOW CANAL  
VS.  
YOLO WATER AND POWER COMPANY.

— — — — —  
Case No. 1011.

*Decided January 18, 1918.*

— — — — —  
An order made by the Railroad Commission in connection with a formal proceeding takes precedence over any contrary provisions which might exist in a contract heretofore entered into between the utility affected and one or more of its consumers. As the contract in the present proceeding tends to establish

a preferential and discriminatory right to water in favor of an individual consumer, it is of no effect in view of the rules and regulations established by the Commission. Petition for rehearing denied.

*Forest A. Plant*, for Complainant.

*Arthur C. Huston*, for Defendant.

BY THE COMMISSION.

#### OPINION ON PETITION FOR REHEARING.

Defendant, Yolo Water and Power Company, a corporation, filed with this commission on July 3, 1917, its application for a rehearing on the order made in the above-entitled proceeding on June 26, 1917. In its petition for rehearing exception is taken to that portion of the order of the commission, which ordered defendant to file a schedule of rules and regulations, which rules and regulations were to provide for the delivery of water by rotation, because this commission in determining said cause failed to pass upon certain issues relative to the validity of a contract entered into between the Yolo County Consolidated Water Company, a corporation, predecessor of the defendant, and the Regents of the University of California; and also because the commission failed to determine the right or obligation of the parties under said contract.

The University Farm at Davis, which is under the control of the Board of Regents of the University of California, is one of the consumers of the Yolo Water and Power Company on its so-called Willow Canal. Under the contract referred to, its predecessor, the Yolo County Consolidated Water Company, a corporation, agreed to furnish the Davis Farm from its system of canals all the water it required, not exceeding at any time the rate of one cubic foot of water per second for each 160 acres of land, and providing that such water be cumulative.

The contract further provides that failure to deliver said water would subject the water company to a penalty of \$500.00 per day for the nondelivery of each cubic foot of water per second required.

Defendant in his petition for rehearing says:

"If the State Farm demands 'all the water that is required' pursuant to the terms of the contract, and it takes the full head to comply with that demand, the system of rotation must be such that the defendant can comply with the demand without becoming involved with the other users on the canal. If, on the contrary, the contract is to be disregarded by reason of its illegality, then the defendant can prepare a system of rotation, putting all users on the same ditch on the same basis."

The contract herein referred to was entered into before the effective date of the Public Utilities Act and undertakes to establish a prefer-

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ential and discriminatory right in favor of Davis Farm. This commission held in the application of James A. Murray et al. (Vol. 2, Opinions and Orders of the Railroad Commission, p. 464) and still maintains that an order of this commission relative to rates and service must be obeyed as against the provisions of such a contract as the one herein.

**ORDER.**

*It is hereby ordered* that the petition for rehearing herein be and the same is hereby denied.

Dated at San Francisco, California, this eighteenth day of January, 1918.

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Decision No. 5057.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN HOME TELEPHONE COMPANY ASKING PERMISSION TO ISSUE OTHER SECURITIES IN PLACE OF BONDS AND PROVIDE FOR THE PAYMENT OF FLOATING DEBT.

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Application No. 3055.

*Decided January 18, 1918.*

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Under conditions that necessitate a rearrangement of its present finances, the following plan is submitted by applicant: Reduce interest on \$98,050.00 face value of outstanding notes from 7 per cent and 8 per cent to 6 per cent, set aside from earnings \$2,000.00 for a period of three years and \$3,000.00 for a period of seven years through the waiving of the sinking fund provision of its trust deed, assess outstanding stock the sum of not less than \$2,000.00 annually for a period of ten years and defer the payment of April interest coupons on its outstanding bonds until April 1, 1924. To use the money secured thereby to discharge notes payable thereby permitting the release and return to treasury of \$177,500.00 face value of bonds pledged as security for such notes.

It is held that the commission's approval of the security holders agreement to the above action is not necessary. Order made permitting applicant to issue its

- two-year notes in the face value of \$89,050.00, bearing interest at 6 per cent, to be issued in renewal of outstanding notes of a like face value and to repledge \$177,500.00 face value of its bonds as security therefor, provided that such bonds shall be returned to treasury and canceled as the obligations they secure are paid off and discharged. Also to issue \$80,025.00 face value of trustees certificates as necessary under its plan of refinancing, to be exchanged for April interest coupons turned in by bondholders, such certificates to bear interest at 5 per cent annually.

*R. Holtby Myers*, for Applicant.

*Gordon, Commissioner.*

**OPINION.**

In this application, as amended, Southwestern Home Telephone Company asks authority to issue two-year 6 per cent notes in the aggregate face amount of \$89,050.00; to pledge \$177,500.00 face value

of its first mortgage bonds to secure the payment of said notes and to issue trustee's certificates in amounts and for purposes hereinafter stated. The purpose of the application is mainly to refund outstanding indebtedness, to be secured by the same amount of bonds now outstanding.

The Railroad Commission in its Decision No. 1296, dated February 24, 1914, (Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 247), reviewed the financial history of Southwestern Home Telephone Company and called attention to the unsatisfactory financial condition of this company. To improve such condition, the Commission suggested a reduction of applicant's bonded indebtedness by the conversion of a portion of this indebtedness into stock or by some method equally satisfactory; a reduction of applicant's floating indebtedness by the amount paid as dividends during the past three or four years, or by such other means as shall reduce this indebtedness to a conservative basis; the cancellation of the 300,000 shares of "contract stock" as well as the cancellation of the stock held by the trustee under applicant's mortgage. The testimony shows that the 300,000 shares of stock and the stock held by the trustee have been canceled. Applicant has, however, been unable to induce any of its bondholders to convert a part of their bonds into stock nor has it been successful in obtaining funds to reduce its floating indebtedness.

Southwestern Home Telephone Company has reported to the Railroad Commission during the years 1914, 1915 and 1916 revenues and expenses as follows:

Item	1916	1915	1914
Operating revenues .....	\$80,252 16	\$79,069 94	\$77,772 48
Operating expenses .....	17,481 40	38,552 38	31,539 79
Net operating revenues .....	\$62,767 76	\$40,517 56	\$46,232 69
Taxes assignable to operations .....	1,501 63	4,262 83	4,171 34
Operating income .....	\$28,263 13	\$36,254 73	\$42,061 35
Nonoperating revenue—net .....	175 00	952 81	102 55
Gross income .....	\$28,438 13	\$37,207 54	\$42,163 90
Deductions—			
Rent for lease of plant .....	\$1,313 30	\$1,015 00	\$1,015 00
Rent for telephone offices .....	916 00		861 00
Rent for poles, conduits, etc. ....	651 27		68 75
Rent for instruments .....	300 00		
Interest on funded debt .....	16,125 00	15,900 00	15,900 00
Other interest .....	8,084 96	8,051 50	8,188 49
Miscellaneous .....			32 56
Total deductions .....	\$30,420 53	\$27,966 50	\$29,065 80
Net income—surplus .....		9,241 04	13,098 10
Loss .....	\$1,982 40		

The variations in the company's surplus account are shown by the following statement:

Item	1916	1915	1914
Surplus beginning of year	\$12,802 97	\$1,273 23	
Miscellaneous items	852 17	*2,288 70	\$1,273 23
Surplus from operations		9,241 04	13,098 10
Total surplus and additions	\$13,655 14	\$12,802 97	\$11,371 33
Deductions -			
Loss for year	1,982 40		
Depreciation not covered by reserve	8,251 55		\$10,006 03
Miscellaneous	3,312 57		2,192 07
Total deductions	\$13,546 52		\$13,098 10
Surplus end of year	\$108 62	\$12,802 97	\$1,273 23

\*Difference to balance.

The maintenance expenses of the company in 1915 are reported at \$6,387.36 and in 1916 at \$21,162.12. The 1916 maintenance expenses include \$12,793.07 allowed for depreciation of plant and equipment. The general and miscellaneous operating expenses of the company were reduced from \$12,693.93 in 1915 to \$7,224.39 in 1916.

On June 30, 1917, Southwestern Home Telephone Company reported assets and liabilities in the following amounts:

*Assets.*

Capital	\$505 888 05
Construction in progress	628 67
Cash in hands of trustee	8330 40
Exchange, petty cash	110 00
First National Bank, Redlands	2,634 93
	3,114 03
Bills receivable	\$167 29
Accounts, subscribers and agents	694 75
Miscellaneous accounts	1,011 27
Materials and supplies	23,358 06
	25,261 37
Redlands bonds in hands of trustee	\$3,500 00
Prepaid directory expenses	104 05
Advance taxes	429 34
Unamortized debt discount and expense	91,365 85
Inventory expense	7,348 96
	102,739 20
Total assets	\$637,631 32

<i>Liabilities.</i>	
Capital stock .....	\$88,769 50
Bonds .....	122,500 00
Redlands Home .....	\$100,000 00
Southwestern .....	22,500 00
Bills payable .....	89,237 50
Advance payments subscribers .....	1,921 62
Accounts payable .....	1,191 56
Miscellaneous liabilities .....	251 46
J. H. Logie, trustee .....	2,120 05
Customer's deposits .....	1,261 94
Pay roll .....	1,981 05
Matured interest, funded debt .....	5,697 90
Matured, other interest .....	1,105 82
Depreciation reserve .....	20,317 14
Surplus .....	66 78
Total liabilities .....	\$637,631 32

The balance sheet of June 30, 1917, does not include the \$177,500.00 face value of bonds pledged to secure the payment of short term notes.

Counsel for applicant frankly admits that the company is unable because of the small net earnings, its large indebtedness and the condition of the security market at present, to secure funds through the issue of either stock or bonds. It has, therefore, become necessary to devise a plan for refinancing the company through funds obtained from the owners and holders of the company's stock, bonds and notes. These funds are to be obtained through the payment of an annual stockholders' assessment of not less than \$2,000.00 for a period of ten years; through the appropriation of net earnings in the sum of \$2,000.00 annually for a period of three years and \$3,000.00 annually for a period of seven years; through the waiver for a period of ten years of the sinking fund provision of the trust deed securing the payment of the Southwestern Home Telephone Company bonds; through the postponement of the collection of the April interest coupons attached to said bonds and through the reduction of the annual interest on applicant's outstanding notes from 7 and 8 per cent to 6 per cent per annum.

Applicant estimates that through the carrying out of this plan, it will secure funds sufficient to pay its \$89,050.00 of short term notes and thereby regain possession of the \$177,050.00 of bonds pledged to secure the payment of the notes. Any surplus remaining after the payment of the \$89,050.00 of notes and the deferred April interest coupons will be used to pay in part the \$100,000.00 of bonds issued by the Redlands Home Telephone Company. The Southwestern Home Telephone Company owns all of the outstanding stock of the Redlands Home Telephone Company and operates its properties under a lease, paying as a rental all of the expenses and fixed charges of the Redlands Company.

Applicant has an authorized stock issue of \$1,000,000.00 divided into 1,000,000 shares of the par value of \$1.00 each. On June 30, 1917, it reported 88,769½ shares of stock outstanding. It appears that the ownership of this stock is widely scattered, there being about 70 stockholders. In "Exhibit No. 4," applicant reports that at a stockholders' meeting held December 14, 1917, 73,912½ shares of stock were represented. The stockholders by unanimous vote authorized the board of directors to levy for a period of ten years a \$2,000.00 assessment annually. The authority granted to the board of directors is contingent upon all of the provisions of the reorganization plan being carried out.

In addition to paying \$2,000.00 annually for ten years in the form of an assessment, the plan requires the stockholders to appropriate from net earnings \$2,000.00 per annum during a period of three years and \$3,000.00 per annum during a period of seven years for the purpose of paying off the note indebtedness and the deferred interest coupons. Mr. Charles A. Rolfe, president of the Southwestern Home Telephone Company testified that in his opinion the company will have sufficient net earnings to make these appropriations. He expects a gradual increase in the earnings and hopes through this reorganization plan to eliminate all attorneys' fees and expenses incidental to refinancing.

Southwestern Home Telephone Company has issued \$500,000.00 of bonds. All of the bonds are outstanding. Bonds in the amount of \$322,500.00 have been sold, while \$177,500.00 are pledged to secure the payment of \$89,050.00 of notes.

The trust deed securing the payment of the bonds requires the company to pay to the trustee on October 1, 1917, and annually thereafter, until the maturity of the bonds, for sinking fund purposes, a sum equal to 2 per cent of all the bonds outstanding. Applicant has requested its bondholders to suspend this sinking fund provision of the trust deed for a period of ten years. It reports that up to December 18, the owners and pledgees of \$375,500.00 of bonds have agreed to the suspension. It should be said in this connection that the suspension of the sinking fund provision is not contingent upon the proposed refinancing plan being carried out.

As said, the company proposes to ask the owners of Southwestern Home Telephone Company bonds to defer collecting the April interest coupons for a period of ten years. To prevent the deferred interest coupons from falling into the hands of innocent purchasers, the company will require the owners of bonds who approve this plan to detach the April interest coupons and deposit the same with a trustee. The trustee in turn will issue to the depositor trustee's certificates equal

in face amount to each interest coupon deposited. The certificate will show on its face that it is issued in exchange for an interest coupon of like amount. Any purchaser of the certificate will be put on notice.

There are outstanding and in the hands of the public \$322,500.00 face value of 5 per cent bonds issued by Southwestern Home Telephone Company. The face amount of the April interest coupons aggregates \$8,062.50. The ownership of these bonds is widely scattered. The company contemplates some difficulty in securing all of the bondholders to subscribe to this plan. For the purpose of calculating the results of the plan, applicant assumes that the owners of \$250,000.00 of bonds will defer collecting the April interest coupons. In such case, the annual payments made by the stockholders to the trustee will be augmented by the sum of \$6,250.00, the amount of the April interest due on \$250,000.00 of bonds. These annual payments will be further increased by the saving in the interest paid on the \$89,050.00 of notes, such saving resulting, first—from the reduction in the annual interest rate from 7 and 8 per cent to 6 per cent, and second—through the payment of the notes.

Applicant estimates that the amounts paid to the trustee under this plan will be sufficient to pay all of the \$89,050.00 of notes on or before April 1, 1924, and that as of that date it will have available \$8,049.00 to apply to the payment of deferred interest coupons. The aggregate face amount of deferred interest coupons, together with 5 per cent interest thereon, on April 1, 1924, will amount to \$42,835.00. Subsequent to this date all amounts paid by the stockholders, as well as an amount equal to the interest now being paid on the \$89,050.00 of notes will be used to liquidate the \$42,835.00 of indebtedness.

Applicant asks that as the \$177,500.00 of pledged bonds are being released through the payment of the \$89,050.00 of notes, it be permitted to deliver said bonds to the trustee as additional security for the payment of the deferred interest coupons. In the opinion of counsel for applicant, the deferred interest coupons constitute a lien on the properties of Southwestern Home Telephone Company. Regardless of this fact, applicant requests permission to secure the payment of the deferred interest coupons, together with the interest thereon, by depositing with the trustee, as the notes are paid off, the \$177,500.00 of bonds. As indicated, the maximum amount of the indebtedness to be secured by the pledging of these bonds aggregates \$42,835.00.

The financial difficulties of Southwestern Home Telephone Company are in a large measure due to the conversion of stock into bonds, to which the commission referred in its decision of February 24, 1914. The conversion of stock into bonds took place in 1907 and 1908. The



logical step at this time would be to exchange some of the outstanding bonds for stock. Such a procedure, however, it is alleged is fraught with endless litigation.

The plan herein outlined is designed to improve the financial condition of Southwestern Home Telephone Company. It has as its one objective, the payment of the \$89,050.00 of notes and the return to the company's treasury of the \$177,500.00 of pledged bonds. To bring about these results, the holders of all classes of securities are asked to co-operate. The stockholders are requested to contribute \$47,000.00; the noteholders to extend the time within which they demand payment of their notes and in the mean time accept a lower rate of interest, and the bondholders to defer for ten years, if necessary, the collection of the April interest coupons. The plan contemplates the payment in full of the April interest coupons, together with the interest thereon at the rate of 5 per cent per annum. The bondholders are not asked to surrender any rights. They are asked to postpone the enforcement of their rights under the deed of trust. If the plan for any reason fails, the interest coupons deposited with the trustee will be returned to the respective bondholders. Under the circumstances and having in mind the financial condition of this company, I do not believe that it is an unreasonable request upon the bondholders to ask them to cooperate in carrying out the financial plan to such a degree so that the bonds now pledged will be returned to applicant's treasury as the \$89,050.00 of notes are being paid off. The order herein will so provide.

Applicant has submitted to the commission for approval a copy of the proposed agreement to be entered into by and between Southwestern Home Telephone Company, certain bondholders of said company and a banking institution as trustee; also a copy of a proposed trustee's certificate to be issued in exchange for the deposited April interest coupons. Under the proposed agreement, the application of the moneys paid to the trustee under the plan vests in the final analysis with a committee of five bondholders. While it is necessary for this committee to act in an impartial manner, nevertheless it is expected that it will give due consideration to the claim of the holders of notes and that whenever it can, without doing an injustice to other noteholders, it will pay the most urgent claims made upon it. I do not believe it is necessary for the commission, either directly or indirectly, to approve the proposed agreement. It is necessary, however, that the proposed agreement be modified so as to be in accord with the order of the commission. A copy of the agreement as finally executed shall be filed with the Railroad Commission.

I submit herewith the following form of order:

**ORDER.**

Southwestern Home Telephone Company having applied to the Railroad Commission for authority to issue notes, trustee's certificates and to pledge bonds, as hereinbefore stated, and a public hearing having been held and the commission being of the opinion that this application should be granted subject to the conditions of the order herein,

*It is hereby ordered* that Southwestern Home Telephone Company be and it is hereby granted authority to issue two-year 6 per cent notes in the aggregate sum of \$89,050.00 for the purpose of refunding the following notes:

Name	Amount	Maturing date
Mary G. Prendergast .....	\$1,250 00	Apr. 30, 1918
Prendergast Estate .....	10,000 00	Apr. 30, 1918
F. H. Wells .....	10,000 00	Apr. 25, 1918
J. W. Brock .....	5,000 00	Apr. 25, 1918
Joseph S. Hale .....	2,000 00	May 3, 1918
Mary G. Casselberry .....	2,500 00	July 7, 1918
Prendergast Estate .....	8,000 00	May 15, 1918
F. M. Izard .....	1,500 00	June 15, 1917
Ellen A. Lewis .....	2,000 00	May 6, 1918
Estate Mary S. Sargent .....	6,000 00	May 3, 1918
Alice P. and Mary Denison .....	2,250 00	June 11, 1918
Ellen A. Roberts .....	1,000 00	Apr. 3, 1917
Henry Fisher .....	1,800 00	Sept. 1, 1918
E. J. Wolverson .....	1,000 00	May 11, 1918
J. O. Thompson .....	1,000 00	May 6, 1918
C. H. Rohrer .....	4,250 00	June 1, 1918
Gertrude A. Hayes .....	3,000 00	June 29, 1918
Henry Fisher .....	1,500 00	Oct. 8, 1917
Henry Fisher .....	2,000 00	Jan. 22, 1919
Mary J. Webster .....	10,000 00	June 30, 1918
First National Bank, Redlands .....	10,100 00	Feb. 1, 1918
Total .....	\$89,050 00	

*It is hereby further ordered* that Southwestern Home Telephone Company be and it is hereby granted authority to issue \$80,625.00 face value of trustee's certificates, or such an amount thereof as may be necessary to carry out the proposed refinancing plan outlined in the foregoing opinion; said trustee's certificates to be substantially in the same form as the trustee's certificate filed with this commission on January 3, 1918.

*It is hereby further ordered* that Southwestern Home Telephone Company be and it is hereby granted authority to pledge \$177,500.00 of bonds to secure the payment of the two-year 6 per cent notes herein authorized to be issued; provided, that said bonds be pledged in the same ratio as at present to secure the payment of the notes to be refunded; and provided, further, that upon the payment of said notes,

or any of the notes to be refunded through the issue of the notes herein authorized to be issued, bonds pledged as security therefor shall be returned to applicant's treasury in such an amount so that the ratio of the face value of the bonds remaining in pledge to the face value of the unpaid notes shall be substantially as two to one. Any bonds returned to applicant's treasury through the payment of notes, shall be hereafter issued only upon further order of the Railroad Commission.

The authority herein granted is granted upon the following conditions and not otherwise.

1. Applicant shall file with the commission within thirty days after its execution a verified copy of the proposed agreement under the terms of which the plan herein outlined is to be carried out.

2. Applicant shall file with the commission within thirty days after the plan becomes operative a verified copy of the trustee's certificate.

3. Applicant shall file with the commission semiannual reports showing in detail the payments made to the trustee under this plan and the application of such payments, and the amount and the number of the bonds returned to its treasury.

4. The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

5. The authority herein granted shall apply only to such notes, bonds and trustee's certificates as may be issued on or before November 30, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eighteenth day of January, 1918.

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DECISION No. 5058.

IN THE MATTER OF THE APPLICATION OF EMMA H. ROSE, ANNA G. LANE AND HOBART ESTATE COMPANY FOR LEAVE TO DISCONTINUE OPERATION OF THE DOUGLAS DITCH IN EL DORADO COUNTY, CALIFORNIA.

Application No. 3006.

FAIRPLAY WATER USERS ASSOCIATION

*vs.*

EMMA H. ROSE, ANNA G. LANE AND HOBART ESTATE COMPANY.

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Case No. 1128.

*Decided January 19, 1918.*

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A utility which has undertaken to deliver water at a fixed compensation to all individuals who apply for such service has assumed an obligation to render a

service which it can not arbitrarily discontinue on the sole grounds that the revenue derived therefrom is insufficient, as such consumers, though few in number, have acquired rights which must be recognized and have developed property which should not be destroyed without just compensation.

Applicants granted permission to abandon the service of water through the Douglas ditch, providing they file a stipulation to the effect that they will abandon the ditch and their right to divert water into it and transfer such property for a nominal consideration, to any person or association who may desire to undertake the operation thereof, or shall file a statement from every person having a right to water through said ditch, waiving such right and agreeing to the abandonment thereof, otherwise to repair and maintain the ditch and render adequate service to existing consumers and others in the district who may apply for such service.

*McCutcheon, Olney & Willard*, by *J. M. Mannon*, for Applicants and Defendants.

*Geo. H. Thompson*, for Complainants.

BY THE COMMISSION.

#### OPINION.

Emma H. Rose, Anna G. Lane and Hobart Estate Company, a corporation, apply for authority to discontinue the operation of the Douglas ditch in El Dorado County, alleging that only surplus water has been furnished as an accommodation to a few individuals for mining purposes; that because of seepage losses and high cost of maintenance and operation the ditch can not now be operated economically; and that it will not now carry water. The owners offer to repair and operate the ditch and furnish water without profit to the inhabitants of Fairplay and vicinity provided users will on their part advance the cost of repair and insure subsequent payment of maintenance and operation expense and taxes.

The owners of the ditch will be referred to hereinafter as "applicants."

The issues raised in Case No. 1128 are whether applicants operate the Douglas ditch as a public utility; whether there is an established obligation to serve water to the district under the ditch and its laterals; and to what extent, if at all, the water may be used in another community.

A public hearing in both matters was held by Examiner Westover at Fairplay.

The Douglas ditch, which is about twenty-five miles long, begins in the northwest quarter of section 12, township 8 north, range 14 east on the middle fork of Cosumnes River, extends generally westerly and southerly to a point near Indian Diggings, where it discharges into a tributary of the south fork of the Cosumnes.

Applicants divert water lower down on both branches of the Cosumnes, selling to patrons as a public utility and using a portion of the supply privately.

The majority of complainant's members who reside in the vicinity of Fairplay receive water through the Fairplay ditch, one of four laterals of Douglas ditch. The vicinity of Ono Ranch where some of the complainants live is served by another lateral, the Bottle Diggings ditch. All of these ditches are owned and controlled by applicants.

The Douglas ditch was built in 1853 by the Cedar and Indianville Water Company, a corporation organized for "agricultural, mining and mechanical" purposes. That company sold water indiscriminately to the public. Applicants later came into possession of the property and continued to sell water to the public down to 1900. Until then water was used almost wholly for mining, but small amounts were used for irrigation. Since 1900 applicants have discouraged water sale but admit having sold to the public water not required by them in their mining operations. Water not used by applicants for mining at Indian Diggings or sold was turned into the creek below the mine and found its way to the Plymouth Mine at Plymouth which is still being operated by applicants. Mining at Indian Diggings has been discontinued for a number of years.

No water was carried in Douglas ditch in 1917 because at a point about seven miles below the intake a flume was washed out last winter. The cost of replacing this flume is estimated by applicants' engineers and superintendent at about \$1,000.00, they alleging great difficulties in construction and transporting supplies to the point in question. These witnesses estimate the total cost of repairs and reconstruction now necessary along the Douglas ditch at \$3,082.00, and that other replacements and repairs will probably be needed in the next two or three years of an estimated cost of \$3,000.00. Complainants' witnesses estimated that sufficient repairs to place the ditch in condition to carry water could have been made for \$300.00 prior to the washout of the flume and that they had an offer in the spring of 1916 for doing work of that character for that sum.

The operating revenue and expenses for seven years down to the time when the flume was washed out last winter are shown below:

Year	Income	Labor	Supplies	Taxes	Loss
1910 -----	\$1,320 30	\$1,920 00	\$233 05	\$344 00	\$1,176 75
1911 -----	1,063 05	1,960 00	257 38	344 00	1,498 33
1912 -----	87 50	2,033 50	123 58	344 00	2,413 58
1913 -----	11 00	1,703 50	113 58	344 00	2,117 08
1914 -----		1,603 50	550 38	344 00	2,497 88
1915 -----	12 50	1,305 00	119 64	400 00	1,811 54
1916 -----	75 95	1,019 26	81 85	400 00	1,428 16

The income for 1910 and 1911 was principally from mining operations. Nearly all mining operations ceased in 1911 in the territory served by Douglas ditch.

The testimony of various water users discloses that some ten acres has been irrigated recently and that several dwellings have used domestic water from the Douglas ditch. In the season of 1916 complainant had control of the ditch for a rental of \$5.00 per month during the irrigation season, during which some six acres were watered.

Testimony of applicants' witnesses shows that there is heavy seepage loss from the ditch and laterals.

Unless there is current demand for the full supply available, which was not shown, the loss of water is not vital and can in part be remedied by known methods.

The president of complainant association, on behalf of the association and its members agreed to an increase in rates sufficient to cover economical maintenance and operation, depreciation and a suitable return to the owners of the property upon their actual investment, provided the charges be not greater than the users can afford to pay.

Mr. Milo H. Brinkley, one of the commission's assistant hydraulic engineers, testified that from an inspection of the ditch, his knowledge of the surrounding country and its development and the testimony presented at the hearing, it was clear that a rate sufficiently high to provide an adequate return to the owners of the utility would prove unreasonably high to the present consumers, because of the small amount of water used and because of the large seepage losses and the cost of maintaining and operating a ditch of that character and extent through the mountainous wooded country which it traverses.

The consumers of water on this ditch, though few in number, and using water to only a limited extent, have acquired rights that must be recognized and have developed property which should not be destroyed without just compensation.

The Pacific Gas and Electric Company endeavored to discontinue the use of a ditch on Washington Ridge, Nevada County, which had been used, as has this system, to a limited extent for irrigation and domestic purposes. John Pelganti et al., in Case No. 679, made complaint to this commission. The defendant company was denied the right to discontinue service until it had made such arrangements that each consumer, established with the right to demand service at the time the company ceased running water, agreed that the ditch might be discontinued. (Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 832.)

It will be recommended that applicant herein be given a certain length of time to obtain from each and every person with established rights to the use of water at the time application was filed a waiver of the right to demand water or agreement that the service may be discontinued and the ditches abandoned.

As an alternative it will be recommended that provided the applicant herein abandon the properties and its right to divert water into the Douglas ditch and indicate its willingness to execute a deed of such properties to any person or association of persons that may desire to undertake their operation, for a nominal payment, that then the application of the company will be granted. If applicant does not see fit to abandon the physical property and rights and fails to obtain agreement from all those who have claimed a right to service, the commission can not do other than dismiss this application.

#### ORDER.

Emma H. Rose, Anna G. Lane and Hobart Estate Company, a corporation, having applied for authority to discontinue operation of Douglas ditch in El Dorado County, and the Fairplay Water Users Association having made complaint against above applicants, and a public hearing having been held in the two proceedings jointly, and the commission being fully apprised in the premises,

*It is hereby ordered* that applicants be and they are hereby authorized to discontinue service of water through the Douglas ditch and its laterals described in the opinion preceding this order, provided:

1. There be filed with this commission a stipulation by all applicants agreeing that they will abandon the Douglas ditch and the right to divert water into it and will execute a deed conveying said property and right for a nominal consideration to any person or association of persons who may desire to undertake the operation of said ditch; or

2. Upon filing with this commission a statement from each and every person who is of record as a water user or as having existing claims for service from the Douglas ditch or its branches waiving such rights or agreeing that service on Douglas ditch and branches may be abandoned.

*It is hereby further ordered* that provided applicants herein have not complied with either of the two foregoing conditions on or before March 1, 1918, they shall, thereupon, as defendants in Case No. 1128, proceed to repair the Douglas ditch and provide for and maintain adequate water service to existing consumers and others in the district who may apply for water therefrom.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of January, 1918.

## DECISION No. 5059.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS OF THE FACE VALUE OF ONE MILLION DOLLARS.

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Application No. 2586.

*Decided January 19, 1918.*

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BY THE COMMISSION.

**TENTH SUPPLEMENTAL ORDER.**

Whereas the applicant in the above-entitled matter reports that it has on deposit \$109,468.05 of the proceeds from the sale of bonds authorized to be issued by Decision No. 3816, dated October 24, 1916 (Vol. 11, Opinions and Orders of the Railroad Commission of California, p. 693); that it has expended \$90,779.82 for additions and betterments during the months of August, September and October, 1917; that its treasury has not been reimbursed for said expenditures, and that to enable it to meet certain obligations due on or before February 1, 1918, it is desirable that it should be authorized to use \$75,000.00 of the said \$109,468.05 to reimburse its treasury in part because of the aforesaid expenditures for additions and betterments; and

Whereas the engineering department of the Railroad Commission is now engaged in checking said expenditures for additions and betterments; and

Whereas from the report of this department it appears to the commission that applicant's request may be granted; and good cause appearing,

*It is hereby ordered* that Sierra and San Francisco Power Company be and it is hereby authorized to use \$75,000.00 of the proceeds obtained from the sale of \$1,000,000.00 face value of its first mortgage 5 per cent four-year gold bonds, the issue of which was authorized by the Railroad Commission's Decision No. 3816, dated October 24, 1916, to reimburse its treasury in part for capital expenditures during the months of August, September and October, 1917, said capital expenditures being reported at \$90,779.82 in Exhibit "A" attached to the tenth supplemental petition herein.

*It is hereby further ordered* that the order in Decision No. 3816, dated October 24, 1916, as amended, by the supplemental orders of the Railroad Commission shall remain in full force and effect, except as modified by this tenth supplemental order.

Dated at San Francisco, California, this nineteenth day of January, 1918.



## DECISION No. 5063.

IN THE MATTER OF THE APPLICATION OF WHITE BUS LINE FOR  
PERMIT TO EXTEND ITS LINES FROM SANTA ANA TO ANAHEIM.

Application No. 3271.

*Decided January 21, 1918.*

The commission, while recognizing the public demand for adequate and safe automobile transportation facilities, will not grant a certificate permitting a company to enter a field already served by an existing company, when such existing company is rendering an efficient service.

Petition of applicant for a certificate permitting the establishment of an automobile stage line for the transportation of passengers and baggage between Anaheim and Santa Ana in connection with its existing line between Los Angeles and Anaheim on the grounds that the establishment of such line would eliminate the necessity of passengers transferring at the latter named point, denied, on the grounds that present traffic is adequately served by the existing company.

*H. W. Kidd*, for Applicant.

*L. S. Lewis*, for Valley Stage Line, Protestant.

*Clyde Bishop*, for Crown Stage Line, Protestant.

*G. H. Scott*, city attorney, for City of Santa Ana.

*E. S. Good*, for A. R. G. Bus Line.

LOVELAND, *Commissioner*.

## OPINION.

White Bus Line, a corporation, requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation of an automobile stage line as a common carrier of passengers and baggage between Anaheim and Santa Ana in the county of Orange.

A public hearing was held at Los Angeles on November 8, 1917, the matter was duly submitted and is now ready for decision.

White Bus Line, a corporation, applicant herein, is now operating an automobile stage line between the city of Los Angeles and the city of Anaheim, via Whittier, La Habra, Brea and Fullerton, and desires to extend its service to the city of Santa Ana, the county seat of Orange County. Applicant proposes to operate a daily schedule of twenty-nine trips Los Angeles to Santa Ana and twenty-eight trips Santa Ana to Los Angeles, and to use a sufficient number of automobiles, each with a carrying capacity of sixteen passengers, to accommodate the traffic offering between Los Angeles and Santa Ana.

Applicant desires to accommodate the through travel between Los Angeles and Anaheim and intermediate points to Santa Ana without transfer at Anaheim to the automobile stage line of the Crown Stages.

The portion of the proposed route between Santa Ana and Anaheim is served by the Crown Stages, owned by A. B. Watson. Passengers

from Los Angeles to Santa Ana use the line of the Pacific Electric Railway or the line of The Atchinson, Topeka and Santa Fe Railway direct to Santa Ana or the auto stage lines of the White Bus Line or the Valley Stage Line to Anaheim, there transferring to the stages of the Crown Stage Line. The Valley Stage Line operates two routes from Los Angeles to Anaheim; one via Clearwater and Buena Park, the other via Whittier, La Habra and Fullerton.

Both the Valley Stage Line and the White Bus Line are responsible companies operating large and comfortable passenger automobiles of special design and with seating capacity of fifteen passengers. Through passengers by auto stages between Los Angeles and Santa Ana are required to change at Anaheim to or from the cars of the Crown Stages and it was urged by the applicant's witnesses at the hearing that the public necessity and convenience required the issuance of a certificate by the commission establishing a line that would enable passengers to go from Los Angeles to Santa Ana without transfer.

Protest was made by the Crown Stages on the basis that their business would suffer if the passengers now handled between Los Angeles and Santa Ana by the Valley Stage Line and the White Bus Line were to be diverted, leaving only the local passengers between Santa Ana and Anaheim to be carried by the Crown Stages and possibly cutting off also a portion of the local traffic now enjoyed between these points. The Valley Stage line protested against the granting of a certificate for the reason that their line terminates at Anaheim and the through business would naturally go to a line offering satisfactory through service.

Both the White Bus Line and the Valley Stage Line have joint ticketing arrangements with the Crown Stages and the question of the ability of the Crown Stages to satisfactorily handle the traffic over the portion of the through route between Los Angeles and Santa Ana, which is covered by the cars operated by the Crown Stages between Santa Ana and Anaheim, coupled with the necessity for the establishment of direct through service, requires consideration in this proceeding.

At the hearing on this application it was stipulated by counsel for applicant and protestants that an investigation should be made by the service department of the commission to determine the actual conditions existing as to the present travel between Los Angeles and Santa Ana and for the necessity for additional service as proposed by the applicant herein. This investigation required a careful examination of the records of the various companies to determine the volume of travel and the ability of the Crown Stages to handle the portion of the traffic between Santa Ana and Anaheim with their equipment.

The Crown Stages sell tickets, both one way and round trip, which are good from Anaheim to Los Angeles and intermediate points over either the line of the White Bus Line or the Valley Stage Line as passengers may elect. This results in no check being available as to the route selected by the passenger between Anaheim and Los Angeles until a settlement is made between the company selling and the company honoring the passenger's ticket for passage.

A check of the local business of the Crown Stages between Santa Ana and Anaheim was made for the period November 2 to 26, 1917, inclusive, with the following result:

	One way.
Between Santa Ana and County Hospital .....	144
Between Santa Ana and Orange .....	401
Between Santa Ana and Substations .....	8
Between Santa Ana and Anaheim .....	2,529
	<hr/> 3,082

or an average of 123 per day; thirty round trips being made daily or an average of two local passengers per single trip.

A recapitulation of the business handled by the Crown Stages between Santa Ana and Anaheim during the periods checked by the commission's service department is as follows:

	Per day.
Crown Stages local passengers .....	123
To and from White Bus Line .....	33
To and from Valley Stage Line .....	13
To and from Rose Stage Line .....	2
	<hr/> 171
Total average per round trip .....	53
Total average per single trip .....	26

The Crown Stages have in operation on the Santa Ana-Anaheim run three cars, each with a carrying capacity of ten passengers. In addition they have in reserve for emergencies or heavy traffic one fifteen-passenger and four ten-passenger cars. It will be observed from the above that the carrying capacity of the Crown Stage equipment is ample to care for all the business offered locally between Santa Ana and Anaheim in addition to the through business.

At the hearing on this application the White Bus Line filed an exhibit showing for the period from July 10 to October 31, 1917, inclusive, a total of 4,448 passengers handled in connection with the Crown Stages; an average of 39 passengers per day. This average is higher than that developed by the investigation of the service department of the commission and the difference is accounted for by the fact that the applicant's exhibit covered a longer period and a portion of such period included the heavy travel of the summer months and the vacation season.

At the hearing petitions were filed by applicant bearing 219 signatures in favor of the application. Petitions were filed by the Crown Stages as protestant bearing 348 signatures stating that no serious inconvenience had been experienced by through passengers changing stages at Anaheim and that the service rendered by the Crown Stages was adequate, convenient and safe and that the petitioners did not consider that public convenience and necessity required the establishment of another stage line between Anaheim and Santa Ana.

Petitioners in their application base their request for a certificate of public convenience and necessity on the alleged fact that complaint has been made covering the character of equipment operated by the Crown Stages between Santa Ana and Anaheim and that better service will be given to the public by the operation of the larger type of equipment as used by the White Bus Line as well as eliminating any inconvenience that may be present in connection with a transfer at Anaheim to or from the automobile stages of the Crown Stage Line.

Permits have been secured by applicant from the board of supervisors of the county of Orange and from the city of Santa Ana and the city of Anaheim in accordance with section 3 of chapter 213, laws of 1917.

After careful consideration of all the evidence in this proceeding, I am of the opinion that the public necessity does not require the establishment of an additional automobile stage line between Santa Ana and Anaheim on the basis that the requirements of the through passenger from Los Angeles and intermediate points to Anaheim for continuation of the line are for the sole reason that a transfer at Anaheim would not be necessary. Unquestionably the public convenience would be somewhat served if a through line were to be established, but the necessity does not exist for the reason that the Crown Stages have adequate equipment to handle the traffic, their equipment is not used to capacity between these points and it is questionable if a sufficient amount of business would remain if another line were to be permitted to enter this field. As to the type of equipment, it was testified that the Crown Stages are able and willing to place equipment on the Santa Ana-Anaheim run of the same type as that now operated by the White Bus Line or the Valley Stage Line.

The commission has received by petitions in this proceeding and also during its investigation of this application material assistance and information from many citizens in the locality and such information has been helpful and is fully appreciated as giving the commission definite data upon which to determine the issue presented. In considering applications of this character the commission fully recognizes the public demand for passenger transportation by automobile

stage service and the necessity that such service be furnished by responsible companies who offer their patrons the best of facilities and the most modern and comfortable equipment. The commission, however, can not ignore the rights of established companies that have in good faith performed the service demanded by the public when such established companies are able and willing to serve the public need for transportation in a satisfactory manner and especially when it appears, as in this proceeding, that the existing company is able to satisfactorily care for all the business offering and that the volume of business is not sufficient to justify the establishment of a competing line.

I find as a fact that the public convenience and necessity do not require the establishment of another automobile stage line as a common carrier of passengers and baggage between Santa Ana and Anaheim and recommend that the application be denied.

Herewith the following form of order:

#### ORDER.

White Bus Line, a corporation, having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation of an automobile stage line as a common carrier of passengers and baggage between Santa Ana and Anaheim, a public hearing having been held, the matter having been duly submitted and the commission being fully advised, the Railroad Commission hereby declares that public convenience and necessity do not require the establishment of an automobile stage line as a common carrier of passengers and baggage by the petitioner herein.

*It is hereby ordered* that this application be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-first day of January, 1918.

## DECISION No. 5064.

IN THE MATTER OF THE APPLICATION OF CALISTOGA ELECTRIC COMPANY AND CALIFORNIA TELEPHONE AND LIGHT COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FORMER TO SELL AND CONVEY UNTO THE LATTER, AND THE LATTER TO PURCHASE AND ACQUIRE FROM THE FORMER, ALL OF THE PROPERTY OF SAID CALISTOGA ELECTRIC COMPANY, AND AUTHORIZING SAID CALIFORNIA TELEPHONE AND LIGHT COMPANY TO ISSUE, SELL AND DELIVER TO THE FACE AMOUNT OF TWENTY SIX THOUSAND DOLLARS ITS FIRST MORTGAGE 6 PER CENT GOLD BONDS, MATURING APRIL 1, 1943.

Application No. 2695.

*Decided January 21, 1948.*

In connection with an application of an electric utility for permission to transfer its properties, the commission will not consider the petition of another electric utility, selling energy to the company proposed to be transferred, that the petition be denied on the grounds that should the purchasing company refuse to continue to secure its energy through the protestant it would lose a considerable investment made to secure such business. The prospective purchaser agreeing to continue to secure energy through protestant until such time as it can secure energy at a more reasonable rate. Protest dismissed.

Calistoga company authorized to transfer its electrical distributing properties serving the town of Calistoga and vicinity to the California Telephone and Light Company for the sum of \$28,900.00 and the latter-named company to issue \$26,000.00 face value of its bonds to be sold at not less than 94 per cent to be applied on the purchase price of the properties acquired.

*J. S. Meyerstein*, for Calistoga Electric Company.

*Charles P. Catten* and *L. H. Susman*, for California Telephone and Light Company.

*Milton S. U'Ren* and *D. L. Beard*, for Napa Valley Electric Company, Intervenor.

*Jacob Lerner*, town trustee, for the town of Calistoga.

EDGERTON, *Commissioner*.

## OPINION.

In this application as amended, Calistoga Electric Company asks authority to sell, and California Telephone and Light Company to purchase, the electric distributing system which serves the town of Calistoga and adjacent territory in Napa County. The consideration for the property as agreed upon by the parties is \$28,900.00. The California Telephone and Light Company also asks authority to issue \$26,000.00 par value of its first mortgage 6 per cent gold bonds due April 1, 1943. The bonds are to be sold for not less than 94 per cent of their face value and the proceeds used to pay in part for the properties to be acquired from Calistoga Electric Company.

Napa Valley Electric Company asks the Railroad Commission to deny this application, or that if it grant the same it be upon the condition that California Telephone and Light Company assume all of the obligations and contracts existing between Napa Valley Electric Company and Calistoga Electric Company. The latter company is purchasing its electrical energy from the Napa Valley Electric Company. The commission by Decision No. 3876, dated November 15, 1916 (Vol. 11, Opinions and Orders of the Railroad Commission of California, p. 974), established the rates for the sale of electrical energy by Napa Valley Electric Company to the Calistoga Electric Company. Regardless of this decision, the Napa company contends that the Calistoga company is purchasing electrical energy under and by virtue of the contract entered into by said Napa company with one, E. L. Armstrong, predecessor in interest of the Calistoga company and by supplementary contracts entered into between said Calistoga company and said Napa company. The intervenor further alleges that if this application is granted, it has no assurance that the California Telephone and Light Company, the purchasing company, will continue to purchase electrical energy under the so-called Armstrong contract. If it does not, the Napa company alleges that its investment made to serve the Calistoga company will become valueless and the securities of the Napa company decline in value proportionately.

In reply to the allegation of the Napa company, the California Telephone and Light Company contends that the Calistoga company is not purchasing electrical energy from the Napa company under the so-called Armstrong contract but under and by virtue of the Railroad Commission's Decision No. 3876, dated November 15, 1916. Applicants further allege that if this petition is granted, the California Telephone and Light company will continue to purchase electrical energy from the Napa company so long as the cost of such electrical energy is not greater than the cost of securing electrical energy from some other source.

In so far as the aforesaid decision of the commission governs in this matter, and regardless of the proposed sale and transfer of these properties, I can see no reason why Calistoga Electric Company could not at any time cease to purchase electrical energy from the Napa Valley Electric Company and make arrangements to purchase its electrical energy from some other source. Under these circumstances, no particular benefit will accrue to the Napa company if this application is denied. Moreover, the California Telephone and Light Company explicitly states that it will continue to purchase electrical energy from the Napa company so long as it can purchase said electrical energy at no greater cost than the cost of securing it from some other source.

In view of the testimony herein as well as the matters submitted to the commission in connection with Cases Nos. 508, 538 and 967, I shall recommend that the petition of intervention filed by Napa Valley Electric Company be denied.

The Railroad Commission's engineers estimate the reproduction cost new of the Calistoga Electric Company as of August 1, 1917, at \$39,722.00, while the reproduction cost new less depreciation is estimated at \$32,393.00. An additional deduction of \$2,000.00 should be made to cover the cost of reconstructing the company's distribution system to comply with the state law requirements, making a cost, less accrued depreciation, of approximately \$30,000.00. The appraisal by the commission's engineers was not based upon the actual historic cost for the reason that the records of the Calistoga Electric Company are not complete. The unit costs applied to the inventory were estimated on the basis of the experience of other companies which constructed comparable properties at about the same time.

California Telephone and Light Company asked authority to issue \$26,000.00 face value of its first mortgage 6 per cent bonds. It proposes to sell these bonds at not less than 94 per cent of their face value. If sold at this price the proceeds from the sale of the bonds will amount to \$24,440.00. The balance of the purchase price, amounting to \$4,460.00, will be paid from the earnings of the California Telephone and Light Company.

It appears that the purchase of the properties of Calistoga Electric Company by the California Telephone and Light Company will be in the interest of economy and efficiency and that the public interest will be served thereby.

I herewith submit the following form of order:

#### ORDER.

Calistoga Electric Company having applied to the Railroad Commission for authority to sell, and California Telephone and Light Company for authority to purchase, a certain electric distribution system which serves the town of Calistoga and adjacent territory in Napa County, and California Telephone and Light Company having applied to the Railroad Commission for authority to issue \$26,000.00 face value of bonds to pay in part for said properties; and a public hearing having been held, and the commission being of the opinion that the public needs will be served by the granting of this application and that the property to be procured or paid for by said bond issue is reasonably required for the purpose specified in the order, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income,



*It is hereby ordered* that Calistoga Electric Company be and it is hereby authorized to sell and convey to California Telephone and Light Company for the sum of \$28,900.00 that certain electric distribution system located in and about the town of Calistoga, Napa County, under the terms and conditions of an agreement of sale, dated the twenty-ninth day of November, 1916, as amended by an agreement dated July 23, 1917, copies of which are on file herein and reference to which is hereby made for a more particular and detailed description of the property herein authorized to be conveyed; provided, that the authority herein granted to transfer properties is subject to the following conditions:

1. The authority herein granted is predicated upon the condition that the consideration given for the property herein authorized to be transferred shall not be binding upon this commission or any other public body as a value for said property for rate fixing or any other purpose, except for the purpose of this proceeding only.

2. Within thirty days after the transfer of the properties, California Telephone and Light Company shall file with the Railroad Commission a copy of the deed of conveyance.

3. The authority herein granted to transfer property shall apply only to such property as shall be transferred on or before October 1, 1918.

*It is hereby further ordered* that California Telephone and Light Company be and it is hereby granted authority to issue \$26,000.00 par value of its first mortgage 6 per cent gold bonds due April 1, 1943, upon the following conditions and not otherwise:

(a) The bonds herein authorized to be issued shall be sold at not less than 94 per cent of their face value plus accrued interest.

(b) The proceeds derived from the sale of said bonds shall be used to pay in part for the properties herein authorized to be transferred to California Telephone and Light Company by Calistoga Electric Company.

(c) The authority herein granted is conditioned upon the payment by California Telephone and Light Company of the fee prescribed by the Public Utilities Act.

(d) California Telephone and Light Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(c) The authority herein granted to issue bonds shall apply only to such bonds as shall be issued on or before October 1, 1918.

The application in intervention of Napa Valley Electric Company is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty first day of January, 1918.

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DECISION No. 5065.

MONTE VISTA VALLEY BOARD OF TRADE ET AL.

vs.

WESTERN EMPIRE SUBURBAN FARMS ASSOCIATION.

Case No. 1065.

IN THE MATTER OF THE APPLICATION OF WESTERN EMPIRE SUB-  
URBAN FARMS ASSOCIATION FOR AUTHORITY TO ADJUST AND  
INCREASE ITS WATER RATES.

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Application No. 2912.

*Decided January 21, 1918.*

A water utility delivering water for both domestic and irrigation purposes can not require of a consumer desiring water for domestic services to construct, at his own expense, the facilities for such service, while at the same time the water utility installs, free of charge, the same facilities to other consumers. Non-discriminatory rules required whereby the domestic system is available to all desiring the use thereof under equitable conditions and at an adequate pressure at all points.

The Railroad Commission having heretofore established a general rule to the effect that all normal service connections and meters shall be installed at the expense of the utility, which rule was effective December 1, 1915, defendant is required to refund, with interest at 6 per cent, all amounts collected covering such installations made subsequent to the above date.

Utilities delivering water for irrigation purposes shall install at their own expense irrigation connections, and no deposit shall be required therefor unless it is shown that such connection is clearly greater than that warranted by the probability of use based on the acreage to be irrigated and the size of service customarily provided for like acreage.

A public utility is required to fully inform all consumers in matters in which their interests or dealings with the utility are involved.

The value of extensions made to a water system for the purposes of developing tracts outside of the original area for which the system was constructed will not be allowed in establishing a value upon which to base rates to consumers in the original district served by the utility.

Revised schedule of rates established including an initial advance charge of \$4.00 per acre of net area in the tract where the service is desired. Defendant also required to provide measurement devices for consumers receiving water through so-called irrigation pipes and whenever possible to arrange for shorter intervals in rotation method of delivering water for irrigation purposes. Defendant also required to submit for approval a revised set of rules and regulations and when approved, to publish in pamphlet form and distribute to all consumers.

*T. C. Gould*, for Complainants.

*C. S. Tappan*, for Defendant.

*W. H. Wieman* and *W. T. Helms*, for Intervenors.

*LOVELAND, Commissioner.*

#### OPINION.

The complaint against the defendant alleges, in brief, that defendant is a public utility corporation subject to the jurisdiction of the Railroad Commission of this state with all the rights and obligations of a public utility developing and distributing water for irrigation and domestic use; that defendant is capitalized for \$800,000.00, divided into 8,000 shares at the par value of \$100.00; that it has authorized a bonded indebtedness of \$258,900.00 of which \$129,450.00 par value and 3,883½ shares of stock were transferred to M. V. Hartranft January 5, 1911, together with a certain agreement providing for further issues to Hartranft; that complainants and other landowners have paid to defendant a large sum of money in return for which defendant was to have provided certain facilities; that defendant has failed to provide the facilities agreed upon; that, without right, it has imposed charges for service connections and meters; that the rates charged for water are discriminatory and excessive; and that the service of water is insufficient and inadequate and the pressure in the mains not sufficient for fire protection or domestic service. The prayer of the petition is that this commission inquire into all the matters complained of, fix reasonable rates and charges for domestic and irrigation service and prescribe rules and regulations governing such service. Also, that the defendant corporation be required to extend its system to all portions of the territory which it purports to serve. Incidental measures indicated in the prayer are naturally to be provided in the establishment of rules and regulations which will conform to the general requirements of this commission.

The answer of defendant admits its status as a public utility; that it is capitalized at the sum of \$800,000.00 as stated by the complaint; denies that the complainants or other owners of land ever paid into the corporation any moneys for the purchase or development of water rights or system, and alleges that defendant has acquired water rights and a complete system for serving all lands with irrigation water, and denies inadequacy of service. Referring to an independent domestic

water supply, it is denied that the property owners have paid the defendant a large amount of money for the installation of a domestic water system, and while it admits that \$5,008.00 were so paid, it is alleged that defendant expended an additional sum in excess of \$7,000.00 for this purpose. It is denied that rates are excessive or discriminatory; that the pressure or quantity of water furnished is inadequate for either irrigation purposes or domestic use, and defendant prays that the complaint be heard in conjunction with its application filed together with the answer.

The application of Western Empire Suburban Farms Association states that its water department, which alone is operated as a public utility, is intended to serve lands aggregating 1,726 acres, this area being constituted by various described parcels dealt in by applicant as a land subdividing and selling agency. Service is also rendered adjacent lands. It is alleged that applicant was incorporated for the purpose of establishing a colony of small landowners, and that all contracts and deeds provided for the construction and maintenance of a water supply system; that the system was constructed and since 1911 has been in operation; that purchasers of a considerable part of the tract have failed to avail themselves of the water supply; and that the rates originally fixed in contemplation of complete use of the system have proven to be unjust to applicant.

The present cost of maintaining and operating the system and making necessary changes is stated to be such that the rates collected are insufficient to cover even these expenditures without any return upon investment.

The prayer of applicant is that the Railroad Commission make its order authorizing applicant to readjust rates and increase the same so that it can properly and adequately maintain and operate its water system.

We will discuss the questions involved in this complaint and application under appropriate headings and in the order that appears to be most logical.

*Legal status of defendant.*

The complainants allege and defendant admits that the Western Empire Suburban Farms Association is a public utility corporation, this status affecting, according to defendant, only the water system constructed by it and the maintenance and operation of the same.

Testimony clearly shows that many persons who are not stockholders in the defendant corporation are served with water at established rates, some of the water users having at one time been stockholders and since relinquished that stock in preference to paying assessments. We find that the Western Empire Suburban Farms Association, in fact, owns and operates for compensation a water system as defined in the Public

Utilities Act and chapter 80, laws of 1913. We find, however, that it is necessary for the commission to look into the operations of defendant corporation in certain other matters in determination of the charges properly to be covered by ratepayers for public utility water service.

*Adequacy of service.*

The testimony shows that all purchasers of land were given reason to expect through representations of defendant that a complete irrigation system reaching every part of the tract was installed and ready for use previous to a certain so-called distribution day, June 7, 1911, and that arrangements were later made for a separate domestic water system to be paid for by an assessment of \$10.00 per acre, this amount to be paid by land buyers in addition to the payments for the land. One complainant paid the assessment for domestic water which defendant's manager stated by letter was to be provided on every street of the tract and said complainant was thereafter denied the separate domestic service unless said complainant would construct separately a pipe line 600 feet in length.

The testimony shows that in another instance a separate pipe line was installed at the outright expense of defendant to the higher portion of a tract when a pipe line already reached the lower portion. There clearly has been discrimination in this particular instance and I shall recommend an order that will cure this discrimination and will provide against its recurrence. It is not certain that there should in all instances be a duplication of pipe system to provide from one system irrigation water and from the other domestic water available at all times and under adequate pressure, but if there is one pipe system only it should be available for all equally and should there be demand for domestic use, it must be made available at all times and under pressure that will reach all parts of the premises as customarily served by companies providing for domestic use.

The defendant, until a recent date, subsequent to the first of December, 1915, when a general order of the commission stopping such practices became effective, has collected payment for the installation of services and meters. The commission's general order referred to is printed in Volume 8 of Opinions and Orders of the Railroad Commission at page 372 as Decision No. 2879 in Case No. 683. This order provides that services and meters of normal size must be installed at the utility's expense. The only exception is made in case the utility believes that the service will not be used in the reasonably immediate future, this being subject to review by the Railroad Commission. The commission, therefore, must find that defendant is under obligation to return all amounts collected since December 1, 1915, to cover the installation of services to the property line or meters, together with interest on such payments at 6 per cent.

Defendant, during recent months, has filed with the commission a tentative rule under which it has required prospective irrigation consumers to deposit the cost of irrigation connections, claiming these to be of other than normal size. It was allowed to file this rule subject to consideration should complaint arise. There has been complaint and the commission must hold that defendant is under obligation to provide such connections without deposit unless the size of connection requested is clearly greater than that warranted by the probability of use as evidenced by the area to be irrigated and the size of service that has customarily been provided for like acreage. The testimony relating to shortage of water supply, general inadequacy of pressure and periods during which no water supply was available is extremely conflicting. The fact that the area served by defendant varies in elevation some 500 feet and that this is divided into two service zones makes it very possible that those on lower levels may receive water continuously and under satisfactory pressure while others at higher levels may be entirely without water. That defendant realizes this is indicated by its stated plan to divide the distribution system into three or four zones, thereby making pressures more nearly uniform and reducing the present very excessive pressure that obtains in portions of both the higher and lower zones of service. The testimony indicates that defendant has under its control a sufficient water supply for the satisfaction of all demands of consumers at the present time and that it can by either development work in the watershed where it obtains part of its supply or by the sinking of additional wells or installation of pumping plants, meet any increased demand that is likely to arise from additional use of water in the district that it has undertaken to supply.

It seems clear that there has been unwarranted and unnecessary cessation of service in various portions of the tract, and the map of the system shows that complainants whose service has been irregular have in every instance resided in the higher portions of one or the other of the service zones. It is difficult to arrive at a determination of the extent of deprivation of supply that has been experienced by complainants. We will endeavor in the order herein to so provide that the particular territories in which it has been claimed that there was shortage of water at times will be better provided either by pipe lines or by so operating the system that especial attention will be given those particular districts.

Certain of the complainants protest against the deliveries of water on the irrigation system by the so-called rotation method, the rotation periods being at intervals of two weeks or three weeks and it being alleged that this makes it impossible to irrigate gardens and berry crops adequately. For some seasons previous to 1917 the rotation

period was generally three weeks. During 1917 it has been two weeks. It is testified that even this interval is too great to allow adequate irrigation of the crops named. This will be cared for in the order herein.

Discrimination exists in that where all water used is delivered through the so-called domestic water pipe lines and no irrigation pipe lines are installed, there is no limitation of water use either as to time or amount, excepting in case of general emergency. This should be corrected either by fixing a higher price to be paid when there is no limitation of use or by so providing that the service for like uses will be alike in all portions of the district served by the defendant.

There were many charges that discrimination has resulted purely from the acts of the manager of defendant, M. V. Hartranft, or various employees. Whether or not the statements made or the denials of such statements by those charged with improper practices are true, it is unnecessary for this commission to determine in this proceeding. We believe that the record in this case clearly indicates that the policy of the management has been arbitrary in the extreme, the management appearing to have constituted itself a paternal agency with a right to guide the purchasers of land in this district in matters involving general conduct as well as the affairs of the public utility. Defendant must realize that all water users served have a right to be fully informed upon all points in which their interests are involved. This is not only required by the Railroad Commission as a general policy, but is advisable from a business standpoint as well. The testimony discloses some carelessness in the handling of accounts that may or may not have resulted in actual discrimination in the payment of rates. This will, of course, be corrected.

*Property of the association.*

The commission's assistant auditor, J. W. White, and others of this department, made a careful examination of the books of defendant. The report setting forth their determinations is filed under Application No. 2912 as commission's Exhibit No. 4. This shows the operations of defendant in all its activities to have resulted in an expenditure of \$393,377.00, \$26,441.44 remaining unpaid, and receipts amounting to \$405,378.26, less accounts receivable and cash on hand of \$36,486.02. The water system investment is found to be \$117,899.88. While the commission has no jurisdiction in the operations of defendant that are not of a public utility nature, it is to be noted that there are still certain amounts due in payment for land sold to colonists and defendant remains owner of some 810 acres which it has for sale.

The financial history of defendant is greatly involved with that of other corporations promoted by M. V. Hartranft, who was the principal

in the development of this project. Of these, the Fruit World Publishing Company, a certain suburban farms association pool, which was an association of individuals, the Glendale and Eagle Rock Railway and operations of Hartranft as an individual received particular mention in the hearings. In the hearings on the application, Mr. A. R. Carter, witness for defendant, presented as applicant's Exhibit "C" (amended) a determination of original cost, reproduction cost and reproduction cost less depreciation of the water system, amounting to respectively \$124,885.93, \$170,720.00 and \$153,255.72. The commission's hydraulic division made a separate determination and suggested as the fair cost of the operative property that should be considered effective in determining rates to be paid by water users as of 1916, \$44,255.00 and as the cost of the remaining part of the property charged by applicant to the water system \$68,562.00, a total for the entire property of \$112,817.00.

The testimony shows that water service was extended to three tracts of land outside the original area and in addition to land purchased by defendant since the original area of 1,726 acres was determined upon. The commission is of the opinion that the proportion of the property used and useful in the service of present consumers is of the fair value of \$44,255.00. The acreage that has been served with water in whole or part amounts to 850 acres according to the commission's engineer, basing his determination upon approximate records and this indicates a cost of system per acre of \$52.00.

#### *Depreciation.*

The commission's engineer testified that there should be set aside annually the sum of \$677.25 to cover operative property subject to physical deterioration and that \$12.60 would be necessary to provide for replacement of the portion of the property considered nonoperative.

Mr. Carter shows in applicant's Exhibit "A" an estimated allowance of \$2,560.87 per year. It appears that Mr. Carter made his determination by first determining reproduction cost then more or less arbitrarily, present value or reproduction cost less depreciation and dividing the difference by the average age. The method pursued by the commission's engineer is in conformity with this commission's practice, and we will assume that there should be provided in rates the sum of \$700.00 annually to be considered as a fund for the replacement of structures.

#### *Maintenance and operation.*

The records of applicant show maintenance and operation expense exclusive of general expenses to have averaged \$2,200.00 per annum during the last four years. The 1916 expense is shown to have been \$3,580.00. During this year it is of record that applicant expended



an unusual amount in repair of mains and general rehabilitation of the system. It will be assumed that \$3,000.00 per annum should be provided for maintenance and operation expense other than general; that a general manager and superintendent should be employed at \$1,800.00 per annum and that \$500.00 should be provided for all other general expenses. This makes in all \$5,300.00.

*Establishment of a rate.*

It is in testimony that an analysis of the company's accounts of the year, March, 1916, to February, 1917, inclusive, indicates 2,222 individual consumer months during which water was used, or minimum charges paid, and 7,300,000 cubic feet of water consumed. At least two consumers were not included in this record, these being M. V. Hartranft and Captain H. F. Hatch. It will be assumed that the use of water actually reached 7,500,000 cubic feet and the number of consumer months were 2,300.

The records in proceedings under the application indicate a recent annual increase in gross revenue of  $7\frac{1}{2}$  per cent.

We have used the above data in determining that the schedule of rates set forth in the order herewith will provide reasonable returns to the company on that portion of the investment which has been found proper as a rate base under present conditions, and the sum of \$6,000.00 per annum for maintenance and operation of the system and replacement of structures.

The initial charge of \$4.00 per acre that the commission will establish in the order herewith, will apply where water is taken or in instances in which the landowner desires to retain the right to take the water.

I recommend the following order:

**ORDER.**

Complaint having been made by the Monte Vista Valley Board of Trade, a corporation, and others against the Western Empire Suburban Farms Association, a corporation, engaged, among other things, in the business of developing, selling and distributing water, and the said association having made application for authority to adjust and increase its rates for water sold, and the commission being fully apprised in the premises, the Railroad Commission hereby finds that the rates now charged by defendant for water are unjust and unreasonable and that the rates herein established are just and reasonable rates.

Basing the order herein on the foregoing finding of fact and on the further findings which are contained in the opinion which precedes this order,

*It is hereby ordered* that Western Empire Suburban Farms Association shall discontinue the rates that it has been charging for water

service and shall substitute therefor the following schedule of water rates:

**Rates.**

An annual payment in advance of any water use of \$4.00 per acre of net area in the tract where the service is desired.

Minimum monthly payments when water is used, for each service connection,

One inch diameter or less .....	\$1 00
One and one-half inch diameter .....	1 50
Two inch diameter .....	2 00
Three inch diameter .....	3 00

*For water used:*

First 500 cubic feet at 20 cents per 100 cubic feet.

Next 500 cubic feet at 10 cents per 100 cubic feet.

All use above 1,000 cubic feet from domestic lines, 3 $\frac{1}{2}$  cents per 100 cubic feet.

All use above 1,000 cubic feet from irrigation pipe lines, 2 $\frac{3}{4}$  cents per 100 cubic feet.

*It is further ordered* that the Western Empire Suburban Farms Association install service connections at its own expense upon application of persons desiring to use water and that it return, together with 6 per cent interest, all payments or deposits for service connections to the property line and meters that have been received by it subsequent to December 1, 1915.

*It is further ordered* that Western Empire Suburban Farms Association provide means for measurement of water delivered to consumers from the so-called irrigation pipe lines in such manner as may be satisfactory to the individual consumer, subject, in case of controversy, to determination by the Railroad Commission.

*It is further ordered* that the Western Empire Suburban Farms Association arrange, in so far as it is possible to do so, for deliveries of water from the irrigation pipe lines at shorter intervals than two weeks for use on small fruits and gardens when application for such service is made at the beginning of the season.

*It is further ordered* that the Western Empire Suburban Farms Association provide a self-registering device at the so-called lower reservoir to record the level of water at that point and keep the record sheets on file and to see that the reservoir is not allowed to run empty, and to so provide that pressure at points of delivery on the domestic system shall not fall under twenty pounds per square inch, except in an emergency.

*It is further ordered* that the Western Empire Suburban Farms Association formulate and file with this commission a complete schedule of rules and regulations to be in conformity with the requirements of this commission's General Order No. 2879 in Case No. 683 and to contain provisions covering the matters hereinbefore decided upon, as well as all

customary general requirements. These rules are to be filed with the commission within twenty days from the date hereof, whereupon they will be given consideration and, with such modifications as the commission may then require, will become effective and subject to publication by this company in pamphlet form and distribution among all consumers or applicants for service within thirty days from the date upon which notification is received from the commission that the schedule is in acceptable form.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-first day of January, 1918.

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DECISION No. 5067.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY FOR AN ORDER TO RENEW A NOTE OF TWENTY-THREE THOUSAND DOLLARS (\$23,000.00) TO THE BANK OF CALIFORNIA, NATIONAL ASSOCIATION.

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Application No. 3449.

*Decided January 21, 1918.*

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Applicant authorized to issue for a period of not to exceed two years, its 6 per cent promissory note of the face value of \$23,000.00, to be sold at not less than par, proceeds thereof to be used for the purposes of discharging a note of a like face value.

*S. Waldo Coleman*, for Applicant.

BY THE COMMISSION.

**OPINION.**

This is an application of Coast Counties Gas and Electric Company for authority to issue a six-month 6 per cent promissory note to Bank of California, National Association, in the principal sum of \$23,000.00 for the purpose of renewing a similar note now outstanding. Applicant also asks authority to renew said note from time to time for a period not exceeding one year.

A hearing in this matter was held before Examiner Encell at San Francisco on January 22.

Applicant's petition shows that the proceeds from the original note were used for the payment of expenditures incurred for capital purposes.

Applicant intends to pay the note which it now desires to issue as soon as it is able to dispose of a sufficient amount of its preferred stock authorized to be issued by Decision No. 4653, dated September 19, 1917.

**ORDER.**

Coast Counties Gas and Electric Company having applied to the Railroad Commission for authority to issue a 6 per cent promissory note in the principal sum of \$23,000.00, payable six months after date to the Bank of California, National Association, and for authority to renew said note from time to time for a period not exceeding one year; and a public hearing having been held and it appearing that the money, property or labor to be procured by such issue is reasonably required for the purpose specified in the order and that such purpose is not in whole or in part reasonably chargeable to operating expenses or to income.

*It is hereby ordered* that Coast Counties Gas and Electric Company be and it is hereby granted authority to issue for not less than the face value thereof a promissory note to the Bank of California, National Association, in the principal sum of \$23,000.00, payable six months after date and bearing interest at not to exceed 6 per cent per annum.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The proceeds from the issue of the note herein authorized shall be used by applicant to pay a \$23,000.00 note payable to Bank of California, National Association, on February 1, 1918.

2. Applicant may renew the note herein authorized to be issued from time to time provided that the term of the note herein authorized together with the term of the notes issued in renewal thereof shall not exceed one year.

3. Coast Counties Gas and Electric Company shall report to the Railroad Commission within ten days after the issue of the note herein authorized the fact and the date of issue, the face value of the note, the rate of interest and the application of the proceeds, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

5. The authority herein granted shall apply only to such notes as shall be issued on or before November 1, 1918.

Dated at San Francisco, California, this twenty-fourth day of January, 1918.

## DECISION No. 5069.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION APPROVING TWO CERTAIN AGREEMENTS DATED THE THIRTEENTH DAY OF SEPTEMBER, 1912, AND THE TWELFTH DAY OF SEPTEMBER, 1917, RESPECTIVELY, ENTERED INTO BY AND BETWEEN PACIFIC GAS AND ELECTRIC COMPANY AND THE TOWN OF SANTA CLARA.

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Application No. 3441.

*Decided January 24, 1918.*

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BY THE COMMISSION.

**ORDER.**

Whereas Pacific Gas and Electric Company has filed an application herein for an order of the Railroad Commission approving those two certain agreements dated the thirteenth day of September, 1912, and the twelfth day of September, 1917, respectively, entered into by and between said applicant and the city of Santa Clara, governing the sale of electric energy to said city by said applicant; and

Whereas applicant has the right to give any concessions which it may elect to grant to the state or any political subdivision thereof as specifically set forth in the commission's Decision No. 421 in Case No. 293 (Volume II, Opinions and Orders of the Railroad Commission of California, page 87); and

Whereas the said agreements, the approval of which is sought herein, appear to be mutually satisfactory to the parties thereto; and

Whereas it does not appear that a specific approval by this commission of said agreement is necessary at this time, nor that there is any need for a public hearing in this matter,

*It is hereby ordered* that Pacific Gas and Electric Company shall, within ten days from the date of this order, file with this commission two copies of each of said agreements, which agreements will be accepted for filing, subject to any changes therein which the Railroad Commission may hereafter find to be just and reasonable after proceedings duly had.

Dated at San Francisco, California, this twenty-fourth day of January, 1918.

## Decision No. 5070.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES,  
NORTHERN DIVISION, FOR AN ORDER AUTHORIZING THE ISSUE  
AND SALE OF STOCK.

Application No. 3436.

*Decided January 25, 1918.*

A corporation which proposes to take over and operate an automobile stage line owned by an individual or copartnership not operating under local permits as provided by chapter 213, laws of 1917, must, before it can operate such line, secure all necessary local permits from the public authorities of the territory through which the line operates, together with a certificate from this commission. Applicant authorized to issue \$12,050.00 par value of its capital stock, \$12,000.00 thereof to be issued in exchange for stage properties now operated between Los Angeles, Santa Barbara and Atascadero, balance of stock to be issued to qualify directors.

*Charles F. Wren*, for Applicant.

GORDON, *Commissioner*.

## OPINION.

In this application Pickwick Stages, Northern Division, a corporation, asks authority to issue \$15,000.00 par value of its common capital stock in exchange for the properties of Pickwick Stages, Northern Division, a copartnership. The copartnership consists of Charles F. Wren, Stella W. Wren and Edith A. Wren. It operates an auto stage line between Los Angeles, Santa Barbara and Atascadero. The partnership has been operating this line prior to May 1, 1917, and therefore, as provided in chapter 213, laws of 1917, may continue to operate the same without an order from the Railroad Commission. If the property is now transferred to a corporation, however, it will be necessary for the corporation to obtain permits from the local authorities and an order from the Railroad Commission declaring that public convenience and necessity require it to conduct said stage line business. The order herein will provide that applicant shall issue no stock until it has obtained all necessary permits and orders required by chapter 213, laws of 1917.

In Exhibit "B" attached to the petition herein, applicant reports the original cost of the twelve automobiles to be acquired by it at \$33,135.00 and the appraised value as of October 1, 1917, at \$15,870.00. Subsequent to the hearing, applicant filed with the commission a statement showing that it had paid or agreed to pay for the twelve automobiles the sum of \$17,900.00, and that the appraised value as of November 30, 1917, amounted to \$14,870.00. On November 30, there was due and payable on the automobiles the sum of \$5,266.50. Deducting this amount from the appraised value leaves a balance of \$9,603.50.

The cost of the furniture and fixtures to be acquired by applicant is reported at \$2,195.00, while the prepaid rent amounts to \$750.00.

Charles F. Wren, general manager of the Pickwick Stages, Northern Division, testified that it was the intention of the copartnership to transfer to the corporation, if this application is granted, all of its properties used or useful in conducting its auto stage line business.

Applicant has an authorized stock issue of \$20,000.00, divided into 2,000 shares of the par value of \$10.00 each. Its board of directors consists of three members. It reports that it has issued five shares of its stock to qualify directors. The validity of the issue of the five shares of stock is doubtful. Applicant therefore asks that it may be permitted to issue five shares of stock in lieu of the stock heretofore issued without authority from the Railroad Commission.

I am of the opinion that Pickwick Stages, Northern Division, should assume the payment of the balance due on the automobiles which it proposes to acquire and that it may issue in exchange for the properties to be acquired from the Pickwick Stages, Northern Division, a copartnership, stock in the amount of \$12,000.00. It is, of course, understood that the stock issued in exchange for the properties will be distributed amongst the copartners in proportion to their interest in the copartnership properties.

I herewith submit the following form of order:

#### ORDER.

Pickwick Stages, Northern Division, a corporation, having applied to the Railroad Commission for authority to issue \$15,000.00 of stock, and a public hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Pickwick Stages, Northern Division, be and it is hereby granted authority to issue \$12,050.00 par value of its common capital stock subject to the following conditions:

1. Stock in the amount of \$12,000.00 shall be issued to Pickwick Stages, Northern Division, a copartnership, in exchange for the automobile equipment and properties described in Exhibit "B," as amended, attached to the petition herein.

(2) Stock in the amount of \$50.00 may be issued in lieu of a like amount of stock heretofore issued without an order from the Railroad Commission for the purpose of qualifying directors.

(3) The authority herein granted shall not become effective until Pickwick Stages, Northern Division, a corporation, has obtained all

necessary permits from public authorities and a certificate of public convenience and necessity from the Railroad Commission as provided for in chapter 213, laws of 1917.

(4) Pickwick Stages, Northern Division, shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted to issue stock shall apply only to such stock as may be issued on or before August 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fifth day of January, 1918.

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DECISION No. 5071.

IN THE MATTER OF THE APPLICATION OF WILLIAM F. FOWLER, RECEIVER OF THE PROPERTY OF SACRAMENTO VALLEY WEST SIDE CANAL COMPANY, FOR AN ORDER AUTHORIZING AN INCREASE IN RATES FOR WATER FOR IRRIGATION.

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Application No. 3369.

*Decided January 25, 1918.*

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The expense of necessary improvements to be made so as to enable applicant to take care of additional demands for water during the year 1918 are apportioned as follows: Portion of cost of canal improvements to capital account, the balance to be amortized over a period of ten years; pumping equipment, assumed salvage deducted and remaining cost to be amortized over a period of four years; additional transformers which will remain in use irrespective of future changes, to capital account.

Unusual expenses incurred in the maintenance of an irrigation system is considered as coming under the head of abnormal expenditures. The sum of \$14,000.00, being a portion of the maintenance and operating expenses of applicant for the year 1917, is so considered, and provision made for its amortization over a period of five years.

Under the schedules of rates heretofore established, applicant will receive a return of 7 per cent upon an investment of \$1,000,000.00 or 8 per cent upon an investment of \$962,500.00, which is considered adequate, petition to increase present schedule accordingly denied. For such consumers as desire water before or after the period of maximum demand an additional rate of 75 cents per acre for four acre-inches of water is established.



Applicant being in the hands of a receiver and unable to obtain the entire sum necessary for proposed improvements, the advance payment to be paid on or before February 15 of each year is increased from 10 per cent to 20 per cent of the cost of water applied for.

To enable consumers to rotate crops a rule is established permitting a consumer to use the amount of water purchased during 1917 on any other portion of his land desired, provided the acreage does not exceed that irrigated during the preceding year.

Applicant, in event it is unable to supply all demands made upon it for water, is to prorate the supply among all applicants, also to post a list of applicants to prevent application being made for an amount of water in excess of that reasonably required for the purpose.

Rules and regulations for the year 1918 established which include that any additional laterals necessary shall be constructed at the expense of consumers and that all laterals shall be operated and maintained by consumers, also that the utility may discontinue service to any consumer for the irrigation of rice when fields are not properly protected against the wastage of water.

*Frank Freeman*, for Applicant.

*C. L. Donohoe, Claude F. Purkitt* and *W. T. Belien*, for Protestants.

THELEN, *Commissioner*.

#### OPINION.

William F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, alleges that the existing rates charged by him for water sold in Glenn and Colusa counties for irrigation are unreasonably low and petitions the Railroad Commission to authorize such increases in the existing rates as the Railroad Commission may find to be just and reasonable. No specific increases are asked.

Petitioner directs the attention of the Railroad Commission to the fact that the owners of at least ten thousand acres of additional land under this system will require water for the irrigation of rice in 1918, and alleges that in order to supply the necessary amount of additional water it will be necessary for petitioner to install additional pumping equipment and to make enlargements and do other work in a portion of the main canal of this system. Petitioner alleges that the cost of developing sufficient water to irrigate 10,000 additional acres of rice will be at least \$100,000.00 and avers that he will be able to secure enough machinery to irrigate only 4,000 additional acres of rice land, in which event the aggregate cost necessary to be incurred to supply said 4,000 additional acres of rice lands, is alleged in the petition to be between \$50,000.00 and \$60,000.00. Petitioner asks the Railroad Commission, in establishing rates herein, to give appropriate consideration to the additional expenditures which it will be necessary for him to incur for construction and operation in connection with the additional acreage to be irrigated in 1918. The petition contains other allegations, to which reference, in so far as material, will hereinafter be made,

Landowners in the old Central Irrigation District, owning approximately 12,000 acres of land under this system, filed herein a written protest. Protestants allege that there is no necessity for an increase in the existing water rates. They allege that they desire water during the irrigating season of 1918 for the irrigation of the land described in their protest, as amended at the hearing herein, being approximately 12,000 acres of rice land and less than 500 acres of general crops. Protestants ask the Railroad Commission to make its order requiring petitioner to make the necessary expenditure to enable him to make delivery of water to the land described in the protest, in addition to all lands which received water during the irrigating season of 1917.

Public hearings herein were held in Willows on January 11 and 12, 1918.

It was stipulated that such documents as might be filed by the parties subsequent to the hearing should be considered as evidence in this proceeding. Subsequent to the hearing petitioner filed a letter dated January 15, 1918, from Mr. W. F. Fowler, receiver, inclosing list of applications filed with him, up to the date of the letter, for water for the irrigating season of 1918. This letter and the accompanying applications, have been marked Exhibit No. 5 of petitioner and filed herein.

The affairs of this irrigation system were fully considered by the Railroad Commission in Decision No. 2483, made on June 14, 1915, in Case No. 597, *Rogers vs. Sacramento Valley West Side Canal Company*, and Case No. 673, *Sacramento Valley Realty Company vs. Sacramento Valley West Side Canal Company* (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 113). In these two proceedings, which were consolidated for hearing and decision, Sacramento Valley West Side Canal Company strongly urged that it was not a public utility and contested the right of the Railroad Commission to make any order compelling it to supply water to any additional lands or to establish rates to be charged by it. The Railroad Commission held that the company was a public utility, directed it to supply water to the lands of the complainant and established rates to be charged by the company for water sold to all its customers for the irrigation of rice and of general crops.

The acreage irrigated and the receipts and operating expenses of this system before and after the Railroad Commission's said decision were as shown in Table I, the years 1914 and 1915 being before the Railroad Commission's order and the years 1916 and 1917, thereafter.

TABLE I.

Operations of Sacramento Valley West Side Canal Company, 1914 to 1917,  
Inclusive.

	1914	1915	1916	1917
Acreage of general crops.....	12,055	11,940	9,422	12,757
Acreage of rice.....	210	?	8,805	16,556
Total revenue .....	\$11,758	\$8,302	\$81,191	\$143,850
Total operating expenses.....	91,686	79,505	78,253	119,598
Net operating revenue.....	*\$79,911	*\$71,503	\$5,911	\$24,252

\*Loss.

As appears from Table I, the acreage in general crops under this system was substantially the same in 1917 as in 1914. During the same period, the acreage in rice increased from 210 acres in 1914, to 8,805 acres in 1916 and 16,556 acres in 1917. During the same period the net earnings increased from a deficit of \$79,911.00 in 1914 to a profit of \$24,252.00 in 1917.

The testimony shows that in 1917, 56,000,000 pounds of rice were produced under this system and that the delivery of water for the irrigation of 10,000 additional acres of rice, as proposed by the land-owners under this system, will presumably result in the production of 40,000,000 additional pounds of rice in 1918.

Reference is hereby made to said Decision No. 2483, and also to the following subsequent decisions of the Railroad Commission affecting this company:

1. Decision No. 2822, made on October 9, 1915, in Cases Nos. 597 and 673 (Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 279), opinion and order on petition for rehearing.

2. Decision No. 3080, made on February 7, 1916, in Cases Nos. 597 and 673 (Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 143), supplemental opinion and order establishing rates, rules and regulations for the irrigating season of 1916.

3. Decision No. 4019, made on January 16, 1917, in Cases Nos. 597 and 673 (Vol. 12, Opinions and Orders of the Railroad Commission of California, p. 304), supplemental opinion and order establishing rates, rules and regulations for the irrigating season of 1917.

4. Decision No. 4460, made on July 14, 1917, in Application No. 2978, order authorizing the sale by Sacramento Valley West Side Canal Company of certain canals and laterals to Princeton-Codora-Glenn Irrigation District.

5. Decision No. 4463, made on July 16, 1917, in Application No. 2977, opinion and order in application of Sacramento Valley West Side Canal

Company for increase in rates to reimburse petitioner for contemplated expense of employing guards to protect its property.

6. Decision No. 4726, made on October 6, 1917, in Case No. 1117, *Brown et al. vs. Fowler, Receiver*, and Case No. 1118, *Peterman vs. Fowler, Receiver*, opinion and order directing defendant to take steps to supply additional water for irrigation.

The present proceeding will be considered under the following heads:

1. New construction.
2. Rates,
  - (a) Rate base.
  - (b) Depreciation annuity.
  - (c) Maintenance and operating expenses.
  - (d) Rates established.
3. Rules and regulations,
  - (a) Filing of applications for 1918 water.
  - (b) Assignment of water for 1918.
  - (c) Time and amount of payment for water.
  - (d) Operation of laterals.
  - (e) Area for which payment is made.
  - (f) Drainage and wastage.

#### 1. New Construction.

The petitioner filed as Exhibit No. 1, an estimate of the expenditures required for the service of an additional 10,000 acres of rice land, which estimate appears as Table II.

TABLE II.

#### Estimate of Expenditures Required for the Service of an Additional 10,000 Acres of Rice Land.

Prepared by Sacramento Valley West Side Canal Company.

*Estimate of Cost of Temporary Pumping Equipment to Supply 250 Cubic Feet Per Second Additional Water.*

One 50-inch B. J. centrifugal pump, without pulley.....	\$6,500 00
One 50-inch B. J. centrifugal pump, with pulley.....	6,850 00
One suction discharge line (material on hand, fabrication cost only).....	800 00
One suction and discharge line, 36 inches to 60 inches.....	2,000 00
One 300-horsepower motor, on hand.....	.....
One 300-horsepower motor.....	4,500 00
One belt, on hand.....	.....
One belt.....	500 00
One transformer, on hand.....	.....
One transformer.....	3,300 00
Two switchboards and equipment.....	300 00
Freight, hauling, valves, fittings, etc.....	1,500 00
Installation, housing, foundations, etc.....	1,700 00
Miscellaneous, contingencies, etc., say.....	4,250 00
Total.....	\$32,800 00

*Estimate of Cost of Improvement of Canal Between Pumping Plant and Stoney Creek.*

No. 1. Cutting 28-foot opening through headgates and replacing same	\$5,000 00
No. 2. Excavating around pumping plant for passage of dredge and cleaning out main canal from headgate to Stoney Creek, five months at \$5,000.00	25,000 00
No. 3. Removing and replacing McIntosh, Orland road and Walsh avenue bridges	3,000 00
No. 4. Pulling trees, stumps and brush, five months at \$1,250.00	6,250 00
	<hr/>
	\$39,250 00

These estimates are of great approximation, consequently no addition for miscellaneous and engineering seems justified.

The above work is already under way and expenditures have been made during 1917, in the following approximate amounts:

Item (1)	\$3,100 00
Item (2)	7,200 00
Item (4)	2,000 00
	<hr/>
Total	\$12,300 00
	<hr/>
Balance required, say,	\$27,000 00

*Estimate of Cost of Improvement of Canal Between Stoney Creek and Irrigated Farms Check.*

Seventy thousand cubic yards (approximate) at \$0.04	\$28,000 00
Twenty six acres right of way, at \$150.00	3,900 00
Contingencies, incidentals, etc., say	4,800 00
	<hr/>
	\$36,700 00

Summary of funds required to provide an additional supply of 250 cubic feet per second required to serve an additional area of 10,000 acres in rice:

Pumping plant	\$32,800 00
Section pumping plant to Stoney Creek	27,000 00
Section Stoney Creek to Irrigated Farms Check	36,700 00
	<hr/>
Total	\$96,500 00

As will be observed, petitioner estimates that in order to develop sufficient additional water to take care of 10,000 additional acres of rice land, it will be necessary to incur expenditures on three main projects, as follows:

1. Installation of additional pumping equipment to supply 250 cubic feet per second of additional water.
2. Improvement of canal between the pumping plant and Stoney Creek.
3. Improvement of canal between Stoney Creek and Irrigated Farms Check.

It will also be observed that petitioner's estimate of expenditures for these three projects is as follows:

(1) Additional pumping equipment	\$32,800 00
(2) Improvement of canal between pumping plant and Stoney Creek	39,250 00
(3) Improvement of canal between Stoney Creek and Irrigated Farms Check	36,700 00

At the hearing, petitioner presented testimony to show that it will be necessary to install three additional 400 K. V. transformers at its pumping plant for the purpose of taking care of the additional electric energy needed to pump the contemplated additional water for 1918. Petitioner testified that the sum of \$8,700.00 should be added to its estimate for this item, making a total estimate of \$41,500.00 for the additional pumping equipment.

Of the total of \$39,250.00 estimated in connection with the improvement of the canal between the pumping plant and Stoney Creek, the sum of \$12,300.00, without overhead, has already been expended in November and December of last year.

Although the petition herein recites that petitioner will be able to secure enough additional machinery to develop water for only 4,000 additional acres of rice, petitioner presented testimony at the hearing herein to show that it will undoubtedly be able to secure enough machinery to develop water for the proposed 10,000 additional acres of rice land.

The protestants accepted petitioner's estimate of the cost of additional pumping equipment.

With reference to the improvement of the canal between the pumping plant and Stoney Creek, protestants conceded that the entire expenditure as contemplated would be desirable, but expressed some doubt as to whether it would be possible to do this entire work prior to the time when it will be necessary to withdraw the dredge from the canal and place it at work on the intake channel. For this reason, protestants suggested a figure of \$15,000.00 in lieu of the estimate of \$39,250.00 presented by petitioner.

With reference to the improvement of the canal between Stoney Creek and the Irrigated Farms Check, consisting principally in raising the backs of the canal, protestants took the position that it would be sufficient to permit a freeboard of one foot, while petitioner took the position that safe operation would require a freeboard of two feet. The estimate of protestants for this work was approximately one half of the estimate presented by petitioner.

No one suggests that the entire expenditure contemplated by petitioner would not be desirable if the necessary funds were available. I shall assume herein that petitioner will incur the entire expenditure contemplated by it in connection with its proposed work.

The parties all agreed that the cost of the improvement of the canal between Stoney Creek and the Irrigated Farms Check will be chargeable to capital account. There was some disagreement with reference to the proper manner to account for the other two proposed expenditures. Petitioner took the position that the cost of the additional

pumping equipment should be considered as an emergency item and charged against the operations of 1918, less assumed salvage. Protestants suggested that this cost be divided, a portion thereof to be charged to capital account and the remaining portion amortized over a series of years. With reference to the improvement of the canal between the pumping plant and Stoney Creek, petitioner took the position that this expenditure should be regarded as deferred maintenance and charged to operating expense for 1918, while protestants contended that about 20 per cent thereof might be charged to deferred maintenance, but that the remaining 80 per cent should be charged to capital account. After consideration, I shall recommend herein the adoption of the suggestions made by Mr. R. W. Hawley, the Railroad Commission's hydraulic engineer, who suggested that with reference to the pumping equipment, the assumed salvage value should be deducted and the remaining sum amortized over a period of four years, and that with reference to the improvement of the canal between the pumping plant and Stoney Creek, the sum of \$5,000.00, being the estimated cost of cutting the opening through the headgates and of replacing the same, should be charged to capital account and the remaining expenditures amortized over a period of ten years. Additional transformers, representing an estimated cost of \$8,700.00 in addition to the estimate originally presented by petitioner, will undoubtedly remain in use notwithstanding the possible changes hereafter in the pumping equipment and may fairly be charged to capital account.

Mr. W. F. Fowler, the petitioner herein, testified that he has been authorized by the Federal Court in which the receivership proceeding is pending, to sell additional receiver's certificates amounting to \$40,000.00 and that the so-called Bondholders' Committee is willing to purchase said certificates in addition to permitting the \$25,000.00 of receiver's certificates heretofore issued to remain outstanding. Provision will be made in the order herein so that the receiver will secure in time the remaining funds necessary in connection with the proposed improvements.

## 2. Rates.

### (a) *Rate Base.*

On page 137 of Volume 7, Opinions and Orders of the Railroad Commission of California, will be found a table prepared by Mr. R. W. Hawley, showing the estimated cost of the public utility property of Sacramento Valley West Side Canal Company as of January 1, 1915, the total estimated cost being \$2,751,878.00. To this sum should be added the additions and betterments on this system in the years 1915 to 1918, inclusive, being approximately \$110,000.00. Attention should

be directed to the fact that the foregoing estimate includes an item of approximately \$1,234,000.00, with overhead, for laterals which are apparently not owned by Sacramento Valley West Side Canal Company; an item of approximately \$123,725.00 for levees which may more properly be chargeable to the land system instead of to the irrigation system, and an item of \$504,920.00 expended by the old Central Irrigation District, which property would appear to be still vested in this district. This property is operated by the receiver of Sacramento Valley West Side Canal Company as assignee under a lease from the directors of Central Irrigation District at a rental of \$50.00 per year.

Petitioner attached as Exhibit "A" to his petition herein a statement of the amount claimed to be invested in that portion of the property of Sacramento Valley West Side Canal Company which will be utilized to serve the lands within the boundaries of Central Irrigation District, exclusive of laterals and drains. The total investment thus claimed is \$1,468,856.35. Protestants challenged an item of \$504,924.00 representing the expenditures by the Central Irrigation District, hereinbefore referred to; an item of \$195,020.00 representing expenditures made by Central Canal and Irrigation Company, which expenditures protestants claim should be reduced to \$123,000.00; and an item of \$87,116.65, being the amount of the so-called Beckwith judgment, which is a prior lien against the property of Sacramento Valley West Side Canal Company.

Petitioner does not claim a return on the fair value of the so-called River Branch Canal, for the reason that it expects shortly to complete arrangements for the sale of the major portion of this canal to the recently formed Princeton-Codora-Glenn Irrigation District.

*(b) Depreciation annuity.*

In Decision No. 2483, made on June 14, 1915, Mr. R. W. Hawley suggested an allowance of \$20,000.00 per year as depreciation annuity. There is nothing in the present record which would justify or require the allowance of any different sum. The rates herein established will allow for this item.

*(c) Maintenance and operating expenses.*

Attached to the petition herein as Exhibit "B" is a statement showing maintenance and operating expenses as claimed by petitioner during the first ten months of 1917, together with an estimate of the expenses for November and December, 1917, the total amount being \$109,904.82.

Petitioner filed herein as Exhibit No. 4 a statement purporting to show, among other matters, actual maintenance and operating expenses for 1917, which statement appears in Table No. III.



TABLE III.

*Operating Expenses for 1917 as Reported by Sacramento Valley West Side Canal Company.*

Pumping plant expense.			
Power .....	\$28,227	36	
Superintendence .....	2,400	00	
Attendance .....	2,052	87	
Other .....	9,357	35	\$42,037 58
Intake channel .....			12,405 47
Canal operation.			
Ditch riders .....	\$11,573	68	
Other .....	1,085	75	12,659 43
Maintenance and repairs.			
Canal cleaning and repairs—			
Earthwork .....	\$15,630	41	
Canal structures .....	6,717	35	
Stoney Creek weir .....	2,245	31	
Other .....	311	08	24,904 15
Maintenance and repairs.			
Laterals other than above roads, buildings, equip-			
ments, etc. ....			6,350 08
General expense.			
Salaries and expenses, general officers. .	\$3,080	69	
Salaries, clerks .....	3,543	25	
General office .....	2,297	33	
Law .....	46	60	
Railroad Commission .....	261	40	
Insurance .....	1,506	18	
Guards .....	2,959	31	
Taxes .....	7,385	78	
Stable and garage .....	50	49	
Forage and mess .....	411	03	21,541 76
			\$119,598 47

The maintenance and operating expenses as reported by petitioner for 1917 were used by all the parties herein as a basis for an estimate of reasonable maintenance and operating expenses for 1918.

It appears that the sum of \$119,598.47 includes the sum of \$12,300.00, with additional overhead, expended in November and December, 1917, on the improvements which are being installed for the purpose of developing water for the additional rice acreage hereinbefore referred to. It also appears that this sum includes expenditures totaling approximately \$14,000.00, which may be regarded as abnormal and which may properly be amortized over a period of five years. It further appears that an additional expenditure of approximately \$7,000.00 will be incurred to pump the additional water in 1918, and that an additional expenditure of \$5,000.00 will be incurred to free the main canal throughout its entire length from water grass. On the other hand, an item of \$1,750.00 incurred in 1917 for repairs to bridges will not recur in 1918, for the reason that the county has now taken over the maintenance and repair of these bridges. Allowance must be made for amortization of those portions of the expenses to be

incurred in connection with the improvements hereinbefore set forth, not properly chargeable to capital account.

After careful consideration, I find that the sum of \$115,000.00 is a just and reasonable sum to be allowed for maintenance and operating expenses and amortization as hereinbefore set forth, on the assumption that this irrigating system will in 1918 deliver sufficient water for the irrigation of 26,000 acres of rice land and 15,000 acres of general crops.

*(d) Rates established.*

The rates in effect under this system are as follows:

<i>Flat Rates.</i>	
For rice .....	\$7.00 per acre per annum
For all other crops .....	2.00 per acre per annum

or *Measured Rates.*

Where water is measured, the rate shall be \$2.00 per acre per annum for the use of 1½ feet per acre during the irrigating season, with an additional charge of \$1.50 per acre-foot per annum, for each acre-foot used in excess of 1½-acre feet.

These rates were originally established by this commission by its order of June 14, 1915. Under these rates, the remarkable development of irrigation in Glenn and Colusa counties hereinbefore referred to has taken place and under them the operations of Sacramento Valley West Side Canal Company have been changed from an operating deficit of \$79,911.00 in 1914 to an operating profit of \$24,252.00 in 1917.

The order herein will provide, as petitioned by protestants and as, in effect, conceded by petitioner, that petitioner shall incur the necessary expenditures to develop enough additional water to irrigate in 1918, 26,000 acres of rice land and 15,000 acres of general crops.

At the rates herein set forth, petitioner will derive from this water the following revenue:

Rice land—26,000 acres at \$7.00 per acre .....	\$182,000.00
General crops—15,000 acres at \$2.00 per acre .....	30,000.00
Total revenue .....	\$212,000.00

Under an allowance of \$115,000.00 for maintenance and operating expenses and \$20,000.00 for depreciation annuity, there will be remaining the sum of \$77,000.00 as return on the fair value of the property of this irrigation system.

This return is equivalent to a return of 6 per cent on the sum of \$1,283,333.60, of 7 per cent on the sum of \$1,000,000.00, and of 8 per cent on the sum of \$962,500.00. Even though through some unforeseen contingency, the maintenance and operating expenses for 1918 should exceed those herein allowed, the return to the canal company would nevertheless be a just and reasonable one. I find as a fact that the rates herein established by the Railroad Commission to be charged

by this irrigation system are just and reasonable rates, and I recommend that the request of the petitioner that those rates be increased be denied.

The petition herein alleges, in part, that a number of landowners in the territory supplied by the petitioner with water desire water before the maximum demand arises during the irrigating season, for the purpose of germinating grass seed in the rice fields. The petition further alleges that a number of landowners desire water after the close of the period of maximum demand for the purpose of moistening the land for early fall plowing. Petitioner alleges that in either event, the rate of 75 cents per acre for 4 acre-inches of water, or fraction thereof, to be served at one time, with a proportionate charge for any amount of water exceeding 4 acre-inches, would be a fair and reasonable rate. Petitioner asks that he be permitted to establish such a rate in addition to the normal season rates. At the hearing the representatives of the landowners agreed that it was desirable to have such a rate established and that the amount of the rate, as suggested by the receiver, is just and reasonable. The order herein will establish this rate. The revenue to be derived therefrom will be in addition to the revenue hereinbefore estimated to be received by petitioner in 1918.

While the rates now being charged for water served under this system are just and reasonable, the receiver is entitled to assistance from the landowners, so that he may be enabled to make the expenditures necessary for the contemplated improvements hereinbefore set forth. Leaving out of consideration the payment of \$12,300.00 already made in November and December, 1917, the proposed improvements, if all the work contemplated is done, may reasonably be assumed to require an additional expenditure of \$105,200.00. As already stated, the receiver can readily secure from the sale of additional receiver's certificates the sum of \$40,000.00. This leaves the sum of \$65,200.00 which must be secured from some other source. The irrigators have heretofore accompanied their application for water with a payment of 10 per cent of the cost of the water, this payment being made on February 15.

It was suggested by the landowners at the hearing herein that it might be fair to increase the initial payment to 20 per cent. This would give the receiver approximately \$42,400.00 from this source on or about February 15. These funds, together with the proceeds from the sale of the contemplated receiver's certificates and the cash on hand should be sufficient to enable the receiver to carry out the proposed improvements. It is entirely fair and reasonable, under the circumstances, that the initial payment to be made by irrigationists for the coming season should be thus increased and the order herein will so provide.

### 3. Rules and Regulations.

#### *(a) Filing of application for 1918 water.*

Applications for water in 1917 were filed on or before February 15, 1917. It is desirable that similar applications for 1918 be filed as early as possible consistent with reasonable notice by petitioner to the landowners under the system. The order herein will provide that applications for water during the season of 1918 must be filed on or before February 15, 1918. Upon receipt of a copy of the opinion and order herein, the petitioner should immediately proceed to give notice of this date, both by mailing to its customers of 1917 and by one publication in a daily newspaper, published in Willows, so that all parties desiring water for 1918 may receive notice.

#### *(b) Assignment of water for 1918.*

Petitioner's Exhibit No. 5 shows that applications for 44,854.93 acres of land for rice and general crops had already been made by January 15, 1918. This list includes an application by Mr. P. B. Cross for 8,914.5 acres of rice land, which application petitioner assures the Railroad Commission will be withdrawn. Nevertheless, it is apparent from this list and from the fact that many of the landowners who received water in 1917 have not as yet made their applications for 1918, that demand will be made for the entire available water for 1918 and very possibly for more water than the receiver can supply. Under these circumstances, reasonable provision should be made for assignment by petitioner of its available water. Landowners who used water in 1917 and who make application on or before February 15, 1918, should receive without diminution the full amount of water for which they apply, provided that it does not exceed the amount used in 1917. If there is not enough water available to supply all applications made on or before February 15, 1918, the water remaining after the requirements of the 1917 users, as hereinbefore set forth, have been met, should be divided, pro rata, among all applicants for additional water. The landowner who used water on a certain portion of his land in 1917 and who desires to rotate his crop and to use water on not to exceed the same number of acres of another portion of his land, should be accorded the same rights as the landowner who desires to use water in 1918 on the same land on which he used it in 1917.

In view of the fact that petitioner may not have available as much water as may be applied for, provision should be made to prevent a landowner from applying for more water than he really needs or intends to use, in the hope that his pro rata may nevertheless give him all the water which he really intends to use. In order to prevent any such abuse, petitioner will be directed to post in his office in Willows,

at a point conveniently available for public inspection, a list of all applications for water, beginning immediately on receipt of a copy of the opinion and order herein, this list to have added thereto, day by day, the new applications received up to and including February 15, 1918. Final assignment of water for the irrigating season of 1918 shall not be made by petitioner until advised by the Railroad Commission that such assignment may be made. Five days will be given to landowners under this system, subsequent to February 15, 1918, to protest to the Railroad Commission, if necessary, that any applicant has applied for more water than he, in good faith, intends to use. The Railroad Commission will promptly take action and will thereupon advise petitioner that he may make final assignment of 1918 water in accordance with direction to be given by the Railroad Commission.

*(c) Time and amount of payment for water.*

The order herein will provide that all applications for water, both for rice land and for general crops, shall be accompanied by a payment of 20 per cent of the cost of the water applied for, the balance to be paid in five equal monthly installments.

While some suggestion was made at the hearing that this provision should not apply to irrigationists producing general crops, the additional payment on the first installment will in no event be large and all landowners under this system should cooperate to make it possible for the petitioner to make the improvements which will result in the development of a large additional acreage under this system and in the attendant enhancement of the prosperity of the community.

*(d) Operation of laterals.*

Under the supplemental orders heretofore made by this commission in Case No. 597 and Case No. 673, it has been provided that the cost of operating and maintaining the laterals should be borne by the landowners and not by the receiver.

Suggestion was made at the hearing herein that this arrangement has not in all respects proved satisfactory, for the reason that a number of the landowners have not properly maintained their laterals, causing inconvenience and loss to other landowners depending upon the same laterals for their water. It was suggested that as soon as possible, provision should be made for the maintenance and operation of all the laterals by the irrigation system and that such additional rate as might seem fair and reasonable be established to cover the additional cost to the utility. After some discussion, however, in which attention was drawn particularly to the fact that the entire situation may shortly be changed by the sale of the River Branch Canal, it was agreed by the utility and the landowners that such arrangement shall be deferred for

another year, and that in the mean time the cost of maintaining and operating the laterals shall continue to be borne by the landowners and not by the utility.

*(c) Area for which payment is made.*

Attention was directed at the hearing to the fact that there has been some confusion in the matter of determining the acreage for which payment for water is to be made by the irrigationists. As to large tracts of land, the utility's practice has apparently been to survey the exterior boundaries and to charge for the entire area, including all sloughs and similar areas on which water is not used for irrigation. Mr. R. W. Hawley testified that, in his opinion, payment should be made only for the net area of the crop. This course seems just and reasonable. Petitioner's rules and regulations should be amended accordingly.

A number of landowners owning relatively small parcels of land drew attention to the fact that at times roads and laterals take off a substantial portion of the tract. These landowners suggested that it is not just that they should pay for the area thus deducted. Mr. E. C. Mills, petitioner's engineer, testified in response to this contention that the utility has never questioned the acreage for which the small landowner has applied for water and that on checking the properties of such landowners, the utility always leaves out the roads. There is apparently no necessity for an order on this point.

*(f) Drainage and wastage.*

The orders heretofore in effect have provided that the utility is authorized to make rules and regulations by which the service of water to rice growers may be discontinued in any case where the owner or person growing rice has not provided for a proper levee surrounding the field of growing rice, so as to prevent the wastage of water, and that the utility may provide rules and regulations which will prevent the users of water for rice-growing purposes permitting water to escape from the bottom of the checks after the flood stage has been reached. It was suggested at the hearing herein that at times it is desirable to drain checks to free them from alkali and that some provision ought to be made so that the rice growers may be permitted to perform such drainage. On the other hand, it was urged that a considerable amount of water has been wasted by certain rice growers and that other irrigationists, particularly small landowners growing general crops, suffered severely during the last irrigating season by reason in part of such wastage. The utility clearly ought to be permitted considerable discretion in handling such situations. I am not convinced of the necessity of making any change, in this respect, in the rules heretofore in effect.

If the request to drain the cheeks is made at a time when other irrigationists will not be injured thereby, I assume that the utility will permit such action to be taken. At other times, the utility may reasonably refuse permission to do so. In any event, the matter may be drawn to the attention of the Railroad Commission if the parties can not work out the situation between themselves.

I submit the following form of order:

#### ORDER.

A public hearing having been held in the above-entitled proceeding, the same having been submitted and being now ready for decision,

*It is hereby ordered* as follows:

#### I.

That William F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, be and he is hereby directed to make such improvements and incur such expenditures as may be necessary so that the irrigation system of Sacramento Valley West Side Canal Company will have developed during the irrigating season of 1918, sufficient water to irrigate at least 26,000 acres of rice land and 15,000 acres of land planted to general crops.

#### II.

That the petition of William F. Fowler, receiver, for an increase of rates charged for water delivered and sold from the system of Sacramento Valley West Side Canal Company is hereby denied.

#### III.

The following rates, rules and regulations, which the Railroad Commission finds are just and reasonable rates, rules and regulations, are hereby established to be charged and observed by Sacramento Valley West Side Canal Company and by William F. Fowler, receiver of the property of said company, during the irrigating season of 1918:

1. Sacramento Valley West Side Canal Company and William F. Fowler, receiver of the property of said company, are hereby authorized to charge for water furnished at the bank of the Main and River Branch canals during the irrigation season of 1918, the following rates:

#### *Flat Rates.*

For rice .....	\$7 00 per acre per annum
For all other crops.....	2 00 per acre per annum

#### *Measured Rates.*

Where water is measured, the rate shall be \$2.00 per acre per annum for the use of one and one-half (1½) feet per acre during the irrigating season, with an additional charge of \$1.50 per acre-foot per annum for each acre-foot used in excess of one and one-half (1½) acre-foot.

The amount of water for which said rates shall be charged shall be the amount of water finally delivered at the private laterals of the landowners, the company bearing the loss due to evaporation and seepage between the Main and River Branch canals and the land where the water is used.

Sacramento Valley West Side Canal Company and William F. Fowler, receiver of the property of said company, are also authorized to deliver water before and after the maximum demand therefor during the irrigating season, for the purpose of germinating water grass seed in the rice fields or for moistening the land for early fall plowing, or otherwise, at the rate of 75 cents per acre for four (4) acre-inches of water, or fraction thereof, to be served at one time, with a proportionate charge for any amount exceeding four (4) acre-inches, payment to be made after each run of such water.

2. Such additional laterals as may be necessary to serve the landowners under the system of Sacramento Valley West Side Canal Company shall be constructed at the expense of the landowners and according to standard specifications of Sacramento Valley West Side Canal Company.

3. The cost of operating and maintaining the laterals during the irrigation season of 1918 shall be borne by the landowners and not by the receiver.

4. Where it is necessary to construct gates in the bank of the Main and River Branch canals, through which the water is to be delivered, said gates shall be constructed and maintained by and under the supervision of the Sacramento Valley West Side Canal Company and the receiver thereof, provided that the landowner shall advance the cost of the same.

5. Landowners desiring water for irrigation of lands during the season of 1918, apart from the special use before and after the maximum demand during the irrigating season hereinbefore referred to, shall make application to the utility in writing, describing the land desired to be irrigated and the kind of crops to be raised thereon, this application to be made on or before February 15, 1918, on the condition that a payment of 20 per cent of the cost of the water applied for shall accompany the application, the balance to be paid in five equal monthly installments. Where the flat rate is in excess of \$2.00 per acre, such payments may be evidenced by promissory notes dated the first day of each month, beginning May 1, 1918, all payable November 1, 1918, such notes to be secured by a crop mortgage, which shall be a first lien on the crop, or, in case such crop mortgage can not be given, then other security shall be given to the satisfaction of the utility, such notes to bear interest at the rate of 7 per cent per annum. Where the



flat rate is not in excess of \$2.00 per acre, cash shall be paid to the said receiver in monthly payments in advance for the water to be furnished during the season of 1918, but said receiver is authorized, in his discretion, in such cases to take security satisfactory to him for the payment of such water rates.

6. The utility, immediately on receipt of a copy of this order, shall post in its office in Willows, California, in a place accessible to the public, a list of applications for water theretofore made, and shall add thereto, from day to day, such additional applications as may be made to and including February 15, 1918. The data thus posted shall show the name of the applicant, the date of the application, the description of the property, the crop to be raised and the total acreage for which application is made.

The utility, immediately on receipt of a copy of this order, shall mail to each customer during 1917, a notice stating that application for water for the irrigating season of 1918 must be filed on or before February 15, 1918, and stating the information to be contained in such application. The utility shall also forthwith publish a copy of such notice in a daily newspaper published in Willows, California.

On or before February 20, 1918, any applicant for water for the irrigating season of 1918 may write a letter to the Railroad Commission, drawing attention to the fact, if it be a fact, that any other applicant has made application for an amount of water in excess of that which he, in good faith, intends to use in 1918. The utility shall not make final assignment of water for 1918 until authorized so to do by the Railroad Commission. In making such assignment, water users of 1917 will, if applied for by them, be assigned water up to the full amount used by them in 1917, without deduction by reason of any possible necessary proration of water. Water applied for by them in excess of that used in 1917 or applied for by other landowners will, if the water applied for should exceed that which is available, be prorated after the 1917 users have had assigned to them the amount of water applied for by them for 1918, not exceeding the amount used in 1917.

7. If any landowner or consumer of water during the irrigation season of 1917 has not paid in full for water the rates authorized by the Railroad Commission to be charged for water, he shall be required to pay the entire season's rates in cash in advance at the time of filing his application.

8. The receiver is authorized to make rules and regulations by which the service of water to those growing rice may be discontinued in any case where the owner or person growing rice has not provided for a proper levee surrounding the field growing rice so as to prevent the wastage of water, and is also authorized to provide rules and regulations

which will prevent the users of water for rice-growing purposes permitting water to escape from the bottom of the checks after the flood stage has been reached.

9. The rates, rules and regulations herein established shall remain in effect to and including October 31, 1918. These rates, rules and regulations are being established for the irrigating season of 1918, and the order heretofore made on June 14, 1915, in Cases Nos. 597 and 673 shall remain in effect except as modified by this order and shall again be in full force and effect on and after November 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fifth day of January, 1918.

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DECISION No. 5072.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY FOR AN ORDER AUTHORIZING ISSUE OF BONDS.

Application No. 3011.

*Decided January 28, 1918.*

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In connection with an application of a water utility for permission to issue its bonds covering expenditures made in the development of an additional water supply, which petition is opposed by the municipalities served by the utility on the grounds that cheaper sources of supply are available, the commission holds that the determination of which of several possible sources of supply shall be developed rests with the management of the utility, which power the commission should not attempt to undertake, nor should it relieve the management of the utility from responsibility for the results obtained by substituting its own judgment in this regard.

Under conditions of applicant's trust deed it is permitted at this time to issue \$462,000.00 face value of bonds, which portion of the \$487,007.25 applied for is authorized to be issued and sold at not less than 94, the proceeds thereof to reimburse treasury covering capital expenditures made.

*W. E. Creed, Arthur G. Tashira and Samuel Spring*, for East Bay Water Company.

*B. D. Marr Greene*, for city of Berkeley.

*John S. Partridge*, for city of Oakland.

EDGERTON, *Commissioner*.

OPINION.

This is an application by East Bay Water Company for authority to issue its bonds not to exceed in the aggregate \$487,007.25 to reimburse its treasury for moneys expended for capital purposes and to provide funds for the improvement and construction of its facilities.

Formal protests against granting this application in so far as it relates to the San Pablo project were made by the cities of Berkeley, Oakland, Alameda, Richmond and Piedmont.

At the hearing herein protestants appeared by counsel and agreed that the relevant evidence in Case No. 1008 (an investigation on the commission's own initiative into the rates, rules and regulations of East Bay Water Company) might be considered by the commission in passing upon this application.

The company at the time of the hearings in the rate case had committed itself to, and made a very considerable expenditure in, developing the so-called San Pablo project. This included the selection of a site for a reservoir and dam, the preparation of the foundations of the dam and the adoption of plans prepared by engineers for the construction of the dam and appurtenances.

Most of the cities which now protest against the granting of this application made in the rate case protest against the inclusion of any expenditure for the San Pablo project in the sum upon which rates should be based.

In the rate case much expert evidence was introduced as to the relative merits of the San Pablo project compared with other possible water developments on property now owned by the company and also in comparison with projects for bringing water from distant sources, such as the San Joaquin and Sacramento rivers, Calaveras supply of Spring Valley Water Company and the Hetch Hetchy project of the city of San Francisco.

Engineers who appeared for the company expressed strong conviction that the building of the San Pablo dam and the impounding of water thereby was a wise expenditure of money. On the other hand witnesses introduced on behalf of the protesting communities testified that the expenditure of money on this dam was unwise in that while it was admitted that a satisfactory amount of water would be produced, that this impounded water would be more costly than water which could be obtained from other sources.

As to the comparative merits of the San Pablo development there is marked conflict of engineering opinion in the evidence. It is admitted, however, that if the company is permitted to proceed with the San Pablo development there will be produced for the East Bay communities a sufficient quantity of water adequately to supply the needs of present and future consumers up to about the year 1927, and it is admitted on all sides that immediate development of water must be had to safeguard the people in a water supply.

While there is very little agreement on the engineering problems involved between the engineers produced as witnesses for the company and the engineering opinion produced by protestants and the engineers

of the Railroad Commission, there are certain facts which to my mind have been established.

It appears clear that if no outside or distant sources of supply become available that all of the water-producing possibilities of the company's system must be taken advantage of and that if they are there will be produced water sufficient to care for the communities involved up to 1938.

The matter of outside or additional or substitutional sources of water supply becoming available to this company and the times of such availability are matters of speculation.

There is nothing in the evidence upon which a conclusion can be reached as to when Hetch Hetchy water will be available to the east side communities, and this is true of all suggested possible available additional or substitutional sources. It may be that before such sources can be made available, either by this company or other agencies, that it will be necessary to develop all of this company's projects. If this proves true then the judgment as to sequence of development of the projects is solely one of expediency, all things considered.

Mr. William Mulholland, Mr. J. B. Lippincott, Mr. F. C. Herman and Mr. G. H. Wilhelm, all engineers of experience, expressed the conviction that the San Pablo project should immediately be developed regardless of any subsequent development of the company's other sources of supply, and also regardless of the possible coming in of outside or additional sources of supply.

Mr. Mulholland particularly urged the benefit of the San Pablo reservoir as a storage and balancing reservoir although he admitted that if used solely as a balancing reservoir it need not be built of as great capacity as now planned by the company.

Mr. Lippincott and Mr. Herman after making many computations arrived at the conclusion that San Pablo water is the cheapest water available to the company. On the other hand, Mr. R. W. Hawley, chief hydraulic engineer of the Railroad Commission, using the figures produced by the engineers of the company, estimates that the San Pablo project involves the production of water at a much higher cost than the production of water on other parts of the company's system and he urges that the San Pablo project should be stopped and that development should occur at what is called the "Upper San Leandro Reservoir Site."

One of the points Mr. Hawley makes against the San Pablo development is that the company claims that it should retain all of the watershed lands owned by it and that if this claim is sustained by the commission the San Pablo project includes a large acreage of watershed lands, the value of which would increase rates.

This point can not be considered in this application because the question of the retention of watershed lands has not been decided in the rate case and in my judgment must be decided irrespective of whether the San Pablo project goes forward or is stopped.

I believe that the conflict in the opinions of the engineers is in some degree at least due to the different assumptions or premises from which they start. Apparently the engineers produced by the company believe that in all probability all of the available water impounding sites now owned by the company will have to be developed. On the other hand, engineers in opposition apparently assume that there can be made available to the company an outside source long before the necessity arises for the developing of all of the water projects of the company. It is true that this accounts only in part for the conflict in opinions, but I believe that it has an influence on the attitude taken by all the engineers.

If the commission is seriously to consider and determine which of the water projects is the most sound from every standpoint, it must substitute its judgment for that of the managers of the property.

I believe that the determination of which, among several possible water developments, should go forward, rests primarily with the management of this company. I do not believe that the commission should attempt to set aside the power and control of the management of this company in determining the development project which should now go forward. Neither do I believe that the commission should relieve this management of responsibility for results by substituting its own judgment in this regard.

In this particular matter we are not dealing with a project the opposition to which claims that it will not serve its purpose; or that the project considered alone and by itself is entirely unworthy, but we have their claim that it is not as good as some other project. We are asked to weigh with extreme nicety the conflicting opinions of engineers and to come to a conclusion against the position taken by the company upon the advice of its engineers, and to inhibit the carrying out of a very important water project.

If the commission denies this application upon the ground that the San Pablo project should proceed no further, then the commission logically must take the position that the dam site and the lands necessary to this project should be disposed of by the company or that none of it could be considered as forming a proper part of a rate base.

The company thereupon would be compelled to either stand by and wait this commission's action determining definitely which project, if any, should be proceeded with, or it must apply to the commission for such determination. The determination of the proper project would

be surrounded with the same conflict of engineering opinion as we are met with here, and the commission would be put in the position that the management of the company now is, and finally be compelled to choose between the conflicting engineering opinions.

If this commission were at this time to discourage or prevent the development of the San Pablo project it must face the inevitable result that it never will be available, because as has been stated we can not compel the company to hold out of use the lands necessary to this project, and at the same time refuse recognition of the value of this land in a rate base; so that in all probability all of the lands involved in this project would be disposed of, and firmly fixed in other uses so as to be no longer available for water development.

Under all these circumstances, I believe that the commission should grant this application and should in no wise interfere or impede the prosecution of the San Pablo project. On this project, the company reports that up to January 1, 1918, it has expended the sum of \$859,264.07.

Statements filed with the commission subsequent to the hearing show that the company has expended for capital purposes from December 1, 1916, to June 30, 1917, the sum of \$577,276.59. Applicant's deed of trust securing the payment of \$15,000,000.00 of bonds provides that after the issue of \$9,128,000.00 of said bonds, the remaining bonds, amounting to \$5,872,000.00, may be issued from time to time to aid in acquiring and providing for 80 per cent of the cost of betterments, improvements or extensions to the works of the company or acquisitions of new property of the company. Applicant reports that under its deed of trust, it may at this time because of its capital expenditures up to June 30, 1917, issue \$461,821.20 of its bonds.

Applicant desires to use the proceeds obtained from the sale of its bonds to reimburse its treasury for moneys expended for capital purposes. From reports on file with the commission, it appears that on January 1, 1917, East Bay Water Company had cash on hand in form of special deposits aggregating \$660,579.75. During the six months, ending June 30, 1917, the earnings available for investment, after providing for depreciation, are reported at \$88,685.78. From December 1, 1916, to June 30, 1917, the company has incurred no indebtedness for construction purposes. All of the expenditures, it is reported, have been made from funds turned over by the Peoples Water Company to East Bay Water Company or from surplus earnings. From the statements filed with the commission, it appears that the company should be permitted to use the proceeds from the sale of bonds to reimburse its treasury for capital expenditures up to June 30, 1917.

East Bay Water Company for the year ending December 30, 1917, reports its net revenue as amounting to \$1,018,623.01. From this amount it deducts for depreciation the sum of \$192,336.17 and for fixed charges and for other deductions the sum of \$546,470.68, leaving a surplus of \$279,816.16.

The financial statement of the company shows an ability to pay the interest on an issue of \$461,821.20 of bonds.

I herewith submit the following form of order:

**ORDER.**

Application having been made by East Bay Water Company for an order authorizing the issuance by it of \$487,007.25 face value of its 5½ per cent bonds, and a hearing having been had and it appearing to this commission that the purposes for which said bonds are proposed to be issued are not properly chargeable to operating expense or income,

*It is hereby ordered* by the Railroad Commission of the State of California that applicant be and it is hereby authorized to issue \$462,000.00 face value of its 5½ per cent bonds upon the following conditions and not otherwise:

(1) Applicant shall sell bonds so as to net not less than 94 per cent of face value, plus accrued interest.

(2) Applicant shall use all of the proceeds of said bonds for the purpose of reimbursing its treasury.

(3) Applicant shall keep a true and accurate account showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued, and shall, on or before the twenty-fifth day of each month, make a verified report to this commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) This order shall not become effective until applicant has paid the fee specified in section 57 of the Public Utilities Act.

This order shall apply to bonds issued hereunder up to and including October 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-eighth day of January, 1918.

## DECISION No. 5073.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER PERMITTING IT TO CONSTRUCT, MAINTAIN AND OPERATE ITS LINE OF RAILROAD AT GRADE; FIRST, ACROSS CERTAIN PUBLIC ROADS, HIGHWAYS AND STREETS IN THE CITY OF STOCKTON; SECOND, ACROSS CERTAIN TRACK OF THE SOUTHERN PACIFIC COMPANY IN STOCKTON; THIRD, ACROSS A CERTAIN TRACK OF CENTRAL CALIFORNIA TRACTION COMPANY IN STOCKTON; AND FOURTH, ACROSS THE TRACK OF THE STOCKTON ELECTRIC RAILROAD COMPANY IN STOCKTON.

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Application No. 3297.

*Decided January 28, 1918.*

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Applicant granted permission to construct a spur track at grade across certain streets and tracks of other common carriers in the city of Stockton, provided that all trains of applicant shall move at a speed not in excess of six miles per hour when using such spur and shall come to a full stop before crossing the tracks of another railway. The cars and trains of carriers crossing the spur shall also come to a full stop before crossing with the exception of the crossing on Scotts avenue between Hunter and El Dorado streets, which motors and cars shall approach the crossing under full control.

*R. W. MacDonald*, for Applicant.

*George D. Squires*, for Southern Pacific Company.

*Arthur L. Levinsky*, for Central California Traction Company and Stockton Electric Railroad Company.

*GORDON*, *Commissioner*.

**OPINION.**

This application was filed with the commission on October 29, 1917, and a hearing was held in Stockton on November 28, 1917.

The applicant desires to construct and operate a spur track in the city of Stockton for the purpose of serving several industries and developing the industrial district south of the Mormon Slough, north of Taylor street and east of Edison street. This spur and the other tracks necessary for the development of this district are approximately one and one-half miles in length, and their construction necessitates the crossing at grade of the following streets and railways in the city of Stockton, to wit:

Hunter street north of its intersection with Scotts avenue;

The northerly one-half of Scotts avenue west of its intersection with Hunter street;

El Dorado street at its intersection with Scotts avenue;

Center street at its intersection with Scotts avenue;

Commerce street at its intersection with Scotts avenue;

Madison street at its intersection with Scotts avenue;

Monroe street at its intersection with Scotts avenue;



The northerly one-half of Scotts avenue west of its intersection with Monroe street;

Van Buren street midway between Hazelton avenue and Scotts avenue;

Hazelton avenue midway between Lincoln street and Van Buren street;

Lincoln street between Church street and Hazelton avenue;

Church street at its intersection with Harrison street;

Sonora street at its intersection with Harrison street;

Sonora street near the easterly line of Harrison street;

Harrison street at its intersection with Church street;

Lincoln street at its intersection with Church street;

Van Buren street at its intersection with Church street;

Van Buren street near the northerly line of Church street;

Harrison street at its intersection with Hazelton avenue;

Lincoln street at its intersection with Hazelton avenue;

Van Buren street at its intersection with Hazelton avenue;

Harrison street near the southerly line of Church street;

A spur track of the Southern Pacific Company in Scotts avenue midway between Commerce street and Center street;

The railroad tracks of the Central California Traction Company in Scotts avenue midway between El Dorado street and Hunter street;

A spur track of the Central California Traction Company in Scotts avenue midway between Center street and El Dorado street;

A double track of the Stockton Electric Railroad Company in Center street at its intersection with Scotts avenue.

The necessary franchise or permit to construct, maintain and operate a single track over the streets above mentioned has been granted the Western Pacific Railroad Company by the city of Stockton, with the exception of the crossings of Sonora street near the easterly line of Harrison street, and Van Buren street near the northerly line of Church street, application for which was pending before the council of the city of Stockton at the date of hearing.

With the exception of Center street, the streets to be crossed by this spur are not heavily traveled and the speed at which trains will operate will probably not exceed six to eight miles an hour. The Western Pacific Company does not expect for some time to operate more than two trains weekly over the spur, and the traffic will probably never exceed two trains daily. In view of the light traffic over the spur and the local character of the street traffic, it is believed that no protection, other than a standard crossing sign at each crossing, will be necessary for the safety of the public.

The Southern Pacific Company's spur, over which a crossing is applied for, is located on Scotts avenue midway between Center street and Commerce street and serves an industry located on the south side of Scotts avenue. At this point trains operate at very slow speed over

the spur, as engines can not enter the building south of the street line when moving cars in or out of the plant.

Two crossings are applied for over the tracks of the Central California Traction Company. The first is over a main-line track located on Scotts avenue between Hunter street and El Dorado street. The Central California Traction Company operates from twelve to sixteen trains and the Tidewater Southern Railway Company operates eighteen trains over this track, making a total of from thirty to thirty-four movements daily. The view at this crossing will be open when approaching on the Western Pacific Company's track. The Central California Traction Company's and the Tidewater and Southern Railway Company's trains approaching on Hunter street from the south can not see the crossing until they turn into Scotts avenue about one hundred feet east of the crossing. The second crossing is over a spur track located on Scotts avenue between Center street and El Dorado street. This spur has not been used during the past five months and it is probable that it will be removed before the Western Pacific's industry track is built.

The proposed crossing over the Stockton Electric Railway Company's tracks is at the intersection of Scotts avenue and Center street. This company has a double track line on Center street and maintains a street car service which amounts to 108 regular movements daily at the point where the crossing is proposed to be made.

At the date of the hearing no agreements as to the cost of maintenance or protection had been entered into between the Western Pacific Railroad Company and the other lines over which crossings are applied for, but it seems unnecessary to delay the order until these agreements are made. There appears to be no reason why the application should not be granted subject to the usual conditions; and if the companies are unable to agree upon those matters connected with the crossings which are usually covered by agreements, the commission could later make a supplemental order covering the questions in dispute.

I recommend the following form of order:

#### ORDER.

The Western Pacific Railroad Company having on October 29, 1917, filed with the commission an application for permission to construct, maintain and operate certain tracks at grade across certain streets and across certain tracks of Southern Pacific Company, Central California Traction Company and Stockton Electric Railroad Company, all in the city of Stockton, county of San Joaquin, California, as hereinafter indicated, and a public hearing having been held thereon, and it appearing to the commission that the application should be granted subject to the conditions hereinafter specified.

9-41120

*It is hereby ordered* that permission be hereby granted the Western Pacific Railroad Company to construct its tracks at grade across certain streets and highways and across certain railways in the city of Stockton, county of San Joaquin, California, as shown by the map attached to the application and described in the foregoing opinion; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings over the streets and highways, together with the cost of their maintenance thereafter in good and first-class condition, for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type to conform to those portions of the streets to be crossed now graded, with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs; and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) The entire expense of constructing and maintaining the crossings with the tracks of Southern Pacific Company, Central California Traction Company and Stockton Electric Railroad Company shall be borne by applicant, subject to such agreements as may be entered into between the companies involved.

(4) All engines, motors and cars of both applicant and Southern Pacific Company shall, before proceeding over the crossing located in Scotts avenue midway between Commerce street and Center street, come to a full stop and shall not proceed to cross until it has been ascertained that it is safe to do so.

(5) All engines, motors and cars of applicant shall, before proceeding over the crossing located in Scotts avenue midway between Hunter street and El Dorado street, come to a full stop and shall not proceed to cross until it has been ascertained that it is safe to do so. All engines, motors and cars of the Central California Traction Company and of the Tidewater and Southern Railway Company shall approach this crossing under full control.

(6) All motors and cars of the Central California Traction Company shall, before proceeding over the crossing of the spur track located in Scotts avenue midway between Center street and El Dorado street, come to a full stop and shall not proceed to cross until it has been ascertained that it is safe to do so.

(7) All engines, motors and cars of both applicant and Stockton Electric Railroad Company shall, before proceeding over the crossing in Center street at its intersection with Scotts avenue, come to a full stop and shall not proceed to cross until it has been ascertained that it is safe to do so.

(8) All engines, motors and cars of applicant shall not proceed over any highway or track crossing mentioned in this application at a speed exceeding six (6) miles an hour.

(9) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-eighth day of January, 1918.

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Decision No. 5074.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY FOR AN ORDER TO ISSUE EIGHT HUNDRED SHARES OF THE FIRST PREFERRED STOCK OF SAID CORPORATION AT NINETY PER CENT OF THE PAR VALUE THEREOF AND FOR AN ORDER ALLOWING THE PAYMENT OF A BROKERAGE COMMISSION NOT EXCEEDING FIVE PER CENT FOR THE SALE OF ANY OF SAID STOCK.

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Application No. 3116.

*Decided January 28, 1918.*

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Order amending original decision permitting the use of \$70,000.00 of the proceeds of stock heretofore authorized for the purpose of discharging certain note indebtedness.

BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission by Decision No. 4653, dated September 19, 1917, authorized Coast Counties Gas and Electric Company to issue at not less than \$85.00 per share, 800 shares of its first preferred 6 per cent capital stock subject among others to the condition that it use \$68,327.01 of the proceeds to pay in part \$81,930.57 of notes listed in paragraph 6 of the original petition herein or for such other purposes as the Railroad Commission may authorize, and that it use the remainder of the proceeds as directed by the Railroad Commission in a supplemental order; and

Whereas applicant now reports in its supplemental petition filed January 25, 1918, in the above-entitled matter that it has been able to sell only a sufficient amount of stock to pay \$4,737.05 of said \$81,930.57 of notes, that the balance of the notes have been paid from other money

in the treasury or have been renewed; that to pay or renew said notes and pay other obligations to the company it has become necessary to incur, as set forth in Exhibit "B" attached to the petition herein, a note indebtedness of \$115,331.11 as of December 31, 1917; that \$16,711.51 of said note indebtedness has since been paid, leaving a balance of \$98,619.60; that to July 31, 1917, the company has expended for additions and betterments \$71,285.59 against which no stock or bonds have been issued; that the maximum amount which the company will be able to obtain from the sale of its stock will be \$70,000.00 and that in view of the foregoing, it requests the Railroad Commission to modify the order in Decision No. 4653 so as to permit it to use the \$70,000.00 obtained from the sale of its preferred stock to pay in part the notes listed in Exhibit "B" attached to the supplemental petition herein;

And it appearing to the Railroad Commission that applicant's request is reasonable and may be granted,

*It is hereby ordered* that conditions 2 and 3 of the order in Decision No. 4653, dated September 19, 1917, be and the same are hereby amended so as to permit Coast Counties Gas and Electric Company to use not exceeding \$70,000.00 of the proceeds from the sale of \$80,000.00 of preferred stock, the issue of which was authorized by Decision No. 4653, dated September 19, 1917, to pay in part the notes listed in Exhibit "B" attached to the supplemental petition herein, or to the payment of such other notes, the proceeds of which have been used in the payment of notes listed in said Exhibit "B."

*It is hereby further ordered* that the order in Decision No. 4653, dated September 19, 1917, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-eighth day of January, 1918.

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Decision No. 5075.

IN THE MATTER OF THE APPLICATION OF HOLTON POWER COMPANY  
TO ISSUE AND SELL ITS FIRST AND REFUNDING GOLD BONDS.

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Application No. 1232.

*Decided January 28, 1918.*

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Supplemental order modifying original decision so as to permit applicant to use \$9,545.43 of the proceeds of bonds for the purpose of reimbursing its treasury covering capital expenses incurred for purposes other than those specified in the original order.

BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission by Decision No. 1894, dated October 21, 1914 (Vol. 5, Opinions and Orders of the Railroad Commission of California, p. 645), as amended, authorized Helton Power Company to issue on or before June 1, 1918, at not less than 85 plus accrued interest, \$200,000.00 of its first and refunding 6 per cent bonds and use the proceeds to pay in part for improvements estimated to cost \$183,650.98, said improvements including the enlargement of the company's water system at El Centro at an estimated cost of \$14,456.20 and the construction of an additional transmission line from El Centro to Brawley at an estimated cost of \$9,661.40; and

Whereas applicant reports that it has sold \$137,500.00 of said \$200,000.00 of bonds; that the reasonable and judicial management of the company does not call for the installation of either the water system or the transmission line to which reference has been made, and that therefore the installation of these improvements has been abandoned; that during the past year it has become necessary to expend \$9,545.43 for the installation of a street lighting system at Brawley and that no bonds have been issued against the cost of the street lighting system; and

Whereas applicant asks the Railroad Commission to modify the order in Decision No. 1894, dated October 21, 1914, so as not to require it to use any of the proceeds of the \$200,000.00 of bonds to install the aforesaid water system and transmission line, but permit it to use proceeds from the sale of the bonds to reimburse its treasury in the amount of \$9,545.43 expended for the installation of the street lighting system at Brawley; and

Whereas it appears to the Railroad Commission that applicant's request is reasonable and should be granted,

*It is hereby ordered* that the order in Decision No. 1894, dated October 21, 1914, be and the same is hereby amended so as to permit Helton Power Company to use not exceeding \$9,545.43 of the proceeds of bonds to reimburse its treasury for expenditures incurred in connection with the installation of the street lighting system at Brawley; said order is hereby further amended so as to permit the company, unless otherwise ordered by the commission, to abandon the installation of the water system at El Centro at an estimated cost of \$14,456.20 and the construction of a transmission line at El Centro to Brawley at an estimated cost of \$9,661.40.

*It is hereby further ordered* that the order in Decision No. 1894, dated October 21, 1914, as amended, shall remain in full force and effect except as modified by the first supplemental order.

Dated at San Francisco, California, this twenty-eighth day of January, 1918.

DECISION No. 5076,  
IN THE MATTER OF THE APPLICATION OF THE SAN ANTONIO  
IRRIGATING COMPANY TO BORROW MONEY.

Application No. 3470.

*Decided January 28, 1918.*

Applicant authorized to issue a three-year 7 per cent promissory note of the face value of \$15,000.00 secured by mortgage, for the purpose of discharging outstanding notes of a like face value.

BY THE COMMISSION.

**OPINION.**

In this application, The San Antonio Irrigating Company asks authority to issue a three-year 7 per cent promissory note for the sum of \$15,000.00 and to mortgage its properties to secure the payment of same.

A hearing on this application was held before Examiner Westover on January 28 at San Francisco.

By Decision No. 727, dated June 19, 1913 (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 1041), the Railroad Commission authorized applicant to issue notes in the principal sum of \$30,000.00. Applicant now reports that all of the notes have been paid except a \$5,000.00 note due February 1, 1918, and a \$5,000.00 note due February 1, 1919. In addition, the company has a note indebtedness of \$5,000.00, making a total debt of \$15,000.00. It wishes to pay and refund this indebtedness by issuing to H. A. Scott a three-year 7 per cent note for \$15,000.00. To secure the payment of the \$15,000.00 note, applicant asks authority to execute a deed of trust in substantially the same form as the deed of trust attached to the petition herein and marked Exhibit "A."

The nature of applicant's operations, the payment of its expenses through assessments and the value of its properties are matters to which the Railroad Commission referred in Decision No. 727, dated June 19, 1913, to which decision reference is here made.

**ORDER.**

The San Antonio Irrigating Company having applied to the Railroad Commission for authority to issue a three-year 7 per cent \$15,000.00 note and mortgage its property to secure the payment of said note; and a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that The San Antonio Irrigating Company be and it is hereby granted authority to issue at not less than the face value thereof a three-year 7 per cent note in the principal sum of \$15,000.00 and to secure the payment of said note by the execution of a deed of trust in substantially the same form as the deed of trust attached to the petition herein and marked Exhibit "A"; said authority being granted upon the following conditions:

1. Applicant shall use the proceeds from the note herein authorized to be issued to pay a \$5,000.00 secured note due February 1, 1918, a \$5,000.00 secured note due February 1, 1919, and \$5,000.00 of unsecured notes, as set forth in the petition herein.

2. The approval herein given of the deed of trust is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to such other legal requirements, to which said deed of trust may be subject.

3. Applicant shall keep separate, true and accurate account showing the receipt and application in detail of the proceeds of the note herein authorized to be issued, and on or before the twenty-fifth day of each month make verified reports to the Railroad Commission, in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall not become effective until applicant has paid the fee specified in section 57 of the Public Utilities Act.

5. The authority herein granted shall apply only to such note as may be issued on or before June 30, 1918.

Dated at San Francisco, California, this twenty-eighth day of January, 1918.

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Decision No. 5079.

GRANT D. MILLER ET AL.

vs.

SOUTHERN PACIFIC COMPANY AND CENTRAL PACIFIC RAILWAY COMPANY.

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Case No. 1134.

*Decided January 28, 1918.*

Complaint petitioning the Railroad Commission to compel defendant company to construct a station on the east side of Twenty-third avenue in the city of Oakland and stop its steam trains at such point dismissed on the grounds that the small amount of traffic originating in the vicinity of Twenty-third avenue is adequately handled by two existing stations a short distance on either side.



The clearance between a spur track and the westbound electric track of defendant being inadequate and dangerous to passengers boarding westbound local trains, defendant directed to erect a passenger shelter, the end and one half of each side inclosed, on the north side of its right of way east of Twenty-third avenue.

*Alexander & O'Donnell*, by *John O'Donnell*, for Complainants.

*W. B. O'Brien*, deputy city attorney, for city of Oakland.

*Geo. D. Squires*, for Southern Pacific Company.

GORDON, *Commissioner*.

#### OPINION.

Complainants in this proceeding ask for an order directing the removal of the Twenty-third avenue station of the Southern Pacific Company in Oakland, Alameda County, from its present location to a point on the easterly side of Twenty-third avenue, that the defendants be required to acquire land and locate and maintain thereon a station adequate for the convenience and safety of the public traveling on the steam and electric lines of the defendant, Southern Pacific Company, and that the steam trains of the Southern Pacific Company be required to stop at said station for the convenience and accommodation of the traveling public.

Defendants filed answer denying the material allegations of the complaint and alleging that the expense necessary to acquire additional property and construct a new station thereon would be prohibitory and wholly unwarranted by the comparatively small amount of traffic originating at such station and that the necessities of the public do not require the removal of the present station and the incurring of the attendant expense.

A public hearing was held at Oakland on October 9, 1917, the matter was duly submitted and is now ready for decision.

The Twenty-third avenue station of the Southern Pacific Company is located on the northwesterly corner of the intersection of Twenty-third avenue with the private right of way of the Central Pacific Railway in the city of Oakland. At this point the electric suburban trains of the Southern Pacific Company stop to discharge and receive passengers but no steam trains stop for the accommodation of main line passengers. The station consists of a waiting room which is provided for suburban passengers in a building at this location but a portion of the waiting room is occupied by a cigar store, and it was testified that patrons of the Southern Pacific Company, especially ladies, objected to using the waiting room on account of its general condition and the lack of appropriate conveniences. The waiting room is maintained at practically no expense to the Southern Pacific Company, lights and brooms being furnished as the Southern Pacific Company's contribution to the maintenance of the facility and the proprietor of the cigar store being responsible for the condition of the waiting room.

A serious objection to the location of the present waiting room is caused by the close clearance existing between the westbound electric track and an industrial spur track serving the plant of the California Potteries Company. In the case of electric trains, westbound, of three or more cars a dangerous condition exists if cars are standing on the industry spur, as insufficient space exists between the tracks for persons who may be awaiting trains and a hazard of accident is present. The conditions existing at this point regarding the impaired clearance do not permit an amendment to the clearance required by the commission unless the usefulness of the industry spur were to be terminated.

Witnesses for the complainants testified as to the Twenty-third avenue station being the logical point for Alameda patrons desiring to board or leave the main line steam trains. No material evidence was introduced supporting such contention and in view of the fact that Alameda patrons are served by the Horseshoe Electric trains which make connection with the main line steam trains at the station of Fruitvale, located seven-tenths mile from Twenty-third avenue station, and further that the needs of the patrons in this portion of Oakland as regards steam train service are met by the Fruitvale and East Oakland (Thirteenth avenue) stations, I am of the opinion that there is no necessity for the stopping of main line steam trains at the Twenty-third avenue station, for the reason that the main line steam trains already make two stops within a reasonable distance from Twenty-third avenue and station facilities and street car service are available at each of such stations.

The complainants in this proceeding have asked that the defendants be required to acquire land and to erect thereon a station. The evidence in this proceeding does not justify a recommendation that such an order be entered as no showing was made as to any freight business requiring the establishment of facilities nor for the stopping of main line steam trains.

There is, however, a dangerous condition existing at the present Twenty-third avenue station which should be corrected to avoid the hazard of accident existing by reason of the impaired clearance between the westbound electric track and the industrial spur track of the California Potteries Company. I find as a fact that a dangerous condition and hazard of accident exist by reason of the above-mentioned impaired clearance, and I recommend that the Southern Pacific Company be required to erect a waiting shed of the umbrella type with the rear end and one-half of the sides enclosed, and to locate such shed on the north side of the right of way at a point east of the east line of Twenty-third avenue. As to the other portions of the complaint, I recommend that same be dismissed.

I suggest the following form of order:

**ORDER.**

A public hearing having been held in the above entitled proceeding and the matter having been duly submitted and the commission being fully advised and basing its order on the finding of fact as set forth in the preceding opinion,

*It is hereby ordered* that the Southern Pacific Company erect a waiting shed or shelter of the umbrella type with the rear and one-half of the sides enclosed, same to be located on the north side of the right of way at a point east of the east line of Twenty-third avenue, Oakland, and that plans for such improvement be submitted to this commission for approval within thirty days from the date of this order, and that the waiting shed or shelter shall be erected within sixty days from the date of the approval of said plans by this commission; and

*It is further ordered* that as to the other matters covered by the complaint in this proceeding, the same be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-eighth day of January, 1918.

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Decision No. 5081.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN HOME  
TELEPHONE COMPANY ASKING PERMISSION TO ISSUE OTHER  
SECURITIES IN PLACE OF BONDS AND PROVIDE FOR PAYMENT  
OF FLOATING DEBT.

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Application No. 3055.

*Decided January 29, 1918.*  
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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas applicant in the above-entitled matter has asked the Railroad Commission to modify its order in Decision No. 5057, dated January 18, 1918, so as to permit it to pledge bonds to secure the payment of deferred interest certificates to be issued in lieu of April interest coupons and thus secure the payment of amounts actually advanced to the company by its bondholders; and

Whereas it appears to the Railroad Commission that applicant's request is reasonable and that the order of the commission should be modified as hereinafter set forth.

*It is hereby ordered* that that portion of the order in Decision No. 5057, dated January 18, 1918, reading:

"It is hereby further ordered that Southwestern Home Telephone Company be and it is hereby granted authority to pledge \$177,500.00 of bonds to secure the payment of the two-year 6 per cent notes herein authorized to be issued; provided, that said bonds be pledged in the same ratio as at present to secure the payment of the notes to be refunded; and provided, further, that upon the payment of said notes, or any notes to be refunded through the issue of the notes herein authorized to be issued, bonds pledged as security therefor shall be returned to applicant's treasury in such an amount so that the ratio of the face value of the bonds remaining in pledge to the face value of the unpaid notes shall be substantially as two to one. Any bonds returned to applicant's treasury through the payment of notes, shall be hereafter issued only upon further order of the Railroad Commission."

be, and the same is hereby, amended so as to read:

"It is hereby further ordered that Southwestern Home Telephone Company be and it is hereby granted authority to pledge \$177,500.00 of bonds to secure the payment of the two-year 6 per cent notes herein authorized to be issued; provided, that said bonds be pledged in the same ratio as at present to secure the payment of the notes to be refunded; and provided, further, that upon the payment of said notes, or any of the notes to be refunded through the issue of the notes herein authorized to be issued, bonds pledged as security therefor shall be returned to applicant's treasury in such an amount so that the ratio of the face value of the bonds remaining in pledge to the face value of the unpaid notes shall be substantially as two to one. Of the bonds returned to applicant's treasury through the payment of the aforesaid notes by means of moneys contributed and advanced by the stockholders, noteholders and bondholders, applicant may issue and pledge from year to year with the trustee under the proposed financial plan outlined in Decision No. 5057 such an amount of said bonds as may be necessary to secure the payment of the moneys advanced by the bondholders; said bonds to be pledged in the ratio of approximately \$2,000.00 of face value of bonds for each \$1,000.00 advanced by the bondholders and represented by applicant's certificates. As applicant's certificates issued in lieu of surrendered April interest coupons are being paid off, and the interest coupons canceled, bonds pledged as security for the payment of the same shall be returned to applicant's treasury in such an amount so that the ratio of the face value of the bonds remaining in pledge with the trustee to the face value of applicant's certificates shall be substantially as two to one—the bonds so returned to applicant's treasury shall thereafter be issued only upon further order of the Railroad Commission."

*It is hereby further ordered* that condition No. 5 of the order in Decision No. 5057, dated January 18, 1918, reading:

"The authority herein granted shall apply only to such notes, bonds and trustee's certificates as may be issued on or before November 30, 1918."

be, and the same is hereby, amended so as to read:

"The authority herein granted shall apply only to such notes and applicant's certificates as may be issued on or before March 1, 1919, and to such bonds as it may be necessary to issue to carry out the financial plan referred to in said Decision No. 5057, dated January 18, 1918."

*It is hereby further ordered* that the order in Decision No. 5057, dated January 18, 1918, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-ninth day of January, 1918.

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Decision No. 5082.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF ALAMEDA FOR AN ORDER DIRECTING A SEPARATION OF GRADES AT THE CROSSING OF COUNTY ROAD NO. 818, EAST OF ALTAMONT, ALAMEDA COUNTY, CALIFORNIA, WITH THE TRACKS OF THE CENTRAL PACIFIC RAILWAY NEAR SAID PLACE.

Application No. 3234.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF ALAMEDA FOR AN ORDER DIRECTING A SEPARATION OF GRADES AT THE CROSSING OF COUNTY ROAD NO. 818, LEADING FROM LIVERMORE TO ALTAMONT, ALAMEDA COUNTY, CALIFORNIA, WITH THE CENTRAL PACIFIC RAILWAY SOUTHWEST OF ALTAMONT.

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Application No. 3235.

*Decided January 30, 1918.*

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In apportioning the cost of constructing a crossing at separate grades where the railroad company desires that the crossing provide for four tracks instead of two as originally agreed upon, there being one track existing at the present time, it is held that the railroad company shall stand all expense in excess of one-half the cost of a two-track crossing.

The usual apportionment of cost of constructing separate grade crossings, being 50 per cent to the county and 50 per cent to the railroad company, is held to be reasonable irrespective of the fact that the State Highway Commission is willing to relieve the county of a portion of its pro rata.

Applicant granted permission to construct two overhead crossings over the tracks of Southern Pacific Company in the county of Alameda and provision made for the division of expense thereof.

*W. H. L. Hyges*, district attorney, for Alameda County.

*C. C. Carlton*, for California Highway Commission.

*George D. Squires*, for Central Pacific Railway.

*GORDON, Commissioner.*

#### OPINION.

The grade separations which the county desires to make in these two applications are on the main highway in Alameda County between Oakland and the east and will displace very dangerous grade crossings which have been used for many years. The State Highway Commission has taken over the county road on which these proposed crossings are located and at this time the road is under reconstruction. As the grades are being changed the present grade crossings can be no longer used and it is absolutely necessary for the two grade separations to be made. No objection to their construction was offered at the hearing, but there is one question in connection with each crossing which it will be necessary to discuss.

Although the State Highway Commission has taken over the highway on which these two crossings are located, the portions of the highway immediately adjacent to the two proposed viaducts were not included, and the viaducts are therefore under the jurisdiction of the county of Alameda, which is to build them. The plans for both structures have been drawn by Alameda County and have been practically agreed upon by both the railroad and the State Highway Commission. Both are overhead crossings of the track.

The estimated cost of the crossing to be constructed under Application No. 3234 is \$15,800.00, based on the assumption that the bridge will provide for two tracks beneath it. It appears that at one time the building of four tracks was discussed and an estimate made of the cost showed it to be in the neighborhood of \$20,000.00. At the hearing, however, the railroad company's representatives stated that two tracks were all the company desired. Since that time it appears from correspondence that the railroad company's representatives were not informed as to the wishes of the responsible officials and the commission has been advised by letter, a copy of which was sent to counsel for the county, that the company desires a four-track structure and it was their understanding that such a structure was to have been provided for. The county wrote to the commission regarding this letter, sending a copy to the railroad company, so that the commission is as fully in possession of the facts as if the matter were developed at the hearing.

It does not seem to me to be necessary to go into the details of this controversy. The parties have agreed to share the expense equally

between them, for a two-track structure according to the statement of the county, and for a four-track structure according to the understanding of the Southern Pacific Company. If the county had, of its own volition, expressed a willingness to pay one-half the cost of a four-track bridge I should have no hesitation in recommending an order dividing the expense on this basis; but inasmuch as the county does not agree that it should be assessed for a four-track structure, the proper apportionment of the expense is a matter for the commission to determine.

At the present time there is but one track at the point where this bridge will be located. In providing for a two-track structure the county is assuming one-half the expense of a bridge ample to take care of the present needs of the railroad company and provide for doubling the present facilities, and I see no reason why it should be called upon to assume the expense of four tracks, especially in view of the fact that the need for four tracks is indefinite, as it seems to be from a letter from the Southern Pacific Company on this subject, from which the following is quoted:

"Relative to the crossing east of Altamont; this being at the summit it was deemed desirable to have the crossing made for four tracks; undoubtedly if we build a double track over that line we will require a passing track at the summit and it is rather difficult at this time, so far ahead, to indicate just what layout of tracks would be necessary. Business is constantly increasing at that station and as the provision could be made for four tracks at very small expenditure, it was deemed advisable to do so. We would then be in a position to put passing track on one side and house track on other side of the double track."

If the railroad company desires to provide for four tracks the county should permit it to do so, but any expense over the cost of a two-track structure should be borne entirely by the company.

No agreement was reached, either at the hearing or prior thereto, regarding the division of expense for the crossing west of town, which was estimated to be \$56,575.00. It was the original understanding of the county that one-third of the cost was to be borne by the State Highway Commission, one-third by the county and one-third by the Southern Pacific Company, but at the hearing and in the correspondence carried on for some time prior thereto, it seems that one-sixth of this cost was all the Highway Commission is willing to pay. It appears that during the first negotiations between the county and the Highway Commission it was assumed that the cost of the structure would be divided on the basis used by the Railroad Commission in many similar cases—that is, 50 per cent to the railroad company and 50 per cent to the county—

and the Highway Commission volunteered to assume one-third of the expense to the county, which is of course one-sixth of the total cost.

As I have said before, the State Highway Commission has no official connection with the construction of this viaduct. Conditions here appear to me to be practically the same as at the crossing east of Livermore. A dangerous grade crossing is being eliminated in both instances and there is nothing to show that the usual apportionment under such circumstances is not fair in this instance. I see no reason why the county and the railroad company should not share equally in this expense, and the fact that the Highway Commission has volunteered to relieve the county of a certain share of its apportionment does not change the situation.

I recommend the following form of order:

#### ORDER.

County of Alameda having applied to the commission for an order directing a separation of grades at the crossing of County Road No. 818, east of Altamont, and for a separation of grades on the same road west of Altamont; and a public hearing having been held, and it appearing that the commission should order such grade separations,

*It is hereby ordered* that the County of Alameda and Southern Pacific Company be and the same hereby are ordered to construct grade separations with the tracks of the Southern Pacific Company at the points and in the manner shown by the maps attached to the application and filed at the hearing; said construction to be made subject to the following conditions, viz:

(1) The overhead crossings shall be constructed with clearances to conform to the commission's General Order No. 26.

(2) The expense of constructing these overhead crossings shall be borne fifty (50) per cent by the county of Alameda and fifty (50) per cent by the Southern Pacific Company; provided that, if the Southern Pacific Company desires to have constructed a bridge to provide for four tracks at the crossing east of Altamont, it shall be permitted to do so, but that all extra expense incurred thereby shall be borne by it.

(3) The commission reserves the right to make such further orders relative to these crossings as to it may seem right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirtieth day of January, 1918.



## DECISION No. 5085.

HORSTMAN, HAHN & COMPANY, J. HOFMAN & SONS COMPANY, AND  
ANCHOR PACKING COMPANY

vs.

SOUTHERN PACIFIC COMPANY AND WELLS FARGO & COMPANY  
EXPRESS.

Case No. 1158.

*Decided January 30, 1918.*

Express matter handled on passenger trains can not be considered as having priority over the passenger traffic. If losses are incurred, due to delays, through the perishable nature of the express matter, it will have to be handled in some other manner than through the readjustment of passenger train schedules.

Petition of complainants that the commission direct defendants to operate an express car containing shipments of dressed veal on train No. 181 instead of train No. 31, Tracy to Oakland Pier, dismissed.

*H. F. Gittings*, for Complainants.*G. D. Squires*, for Southern Pacific Company.*Alfred Satro*, for Wells Fargo & Company.*GORDON*, Commissioner.

## OPINION.

The complainants in this proceeding are wholesale dealers in fresh meats in the city of San Francisco and are receivers of large quantities of dressed veal from points on the west side of the San Joaquin Valley, these shipments moving by Wells Fargo & Company express over the line of the Southern Pacific Company. It is alleged that by reason of shipments leaving points on the west side of the San Joaquin Valley on Train 35 of the Southern Pacific Company, which train is scheduled to arrive at Tracy at 11.35 a.m., and by holding the express car at Tracy for movement to Oakland Pier on Train 31, scheduled to depart from Tracy at 2.25 p.m. and to arrive at Oakland Pier at 5.02 p.m., the shipments have suffered damage by reason of the delay of two hours and fifty minutes at Tracy. Complainants ask for an order of the commission compelling defendants to handle the express car containing veal shipments from Tracy to Oakland Pier on Train 181 of the Southern Pacific Company, such train being scheduled to leave Tracy at 12.18 p.m. and to arrive at Oakland Pier at 2.22 p.m.

The defendants in this proceeding each filed an answer denying the material allegations of the complaint.

A public hearing was held at San Francisco on December 7, 1917, the matter was duly submitted and is now ready for decision.

J. G. Hofman, president and manager of J. Hofman & Sons Company, testified as to the conditions under which veal shipments move to

San Francisco from points on the west side of the San Joaquin Valley. His company receives dressed veal from Los Banos and Newman every day, shipments varying from ten to fifty in number. The delay in arrival at San Francisco has resulted in loss by the veal arriving in poor condition and in some cases being condemned for sale as a food product by the health department inspectors of the city of San Francisco. Specific instances of unusual delay were on November 5, 1917, when 45 calves were forwarded from Newman, 17 of which were not delivered at the Ferry Building in San Francisco until the following day, although the employee receiving for consignee awaited arrival of the shipments until 9.00 p.m. on November 5. A loss of \$21.12 was sustained on this shipment. On November 8, 1917, a shipment of eight calves was delayed, four only being delivered on that date and the remaining four being delivered on the following day, no record of any loss appearing against this shipment. On November 10, 1917, a shipment was made which, although employee awaiting same remained at the Ferry Building in San Francisco until 9.00 p.m., was not delivered until the following day, the calves being placed in cold storage by the express company. No record of any loss appears against this shipment. Definite record of losses sustained on shipments was, on July 16, 1917, in amount \$39.75 on a shipment from Crow's Landing, and \$9.00 from another point; on August 21, 1917, in amount \$45.60 on a shipment from Crow's Landing; and on September 15, 1917, in amount \$18.93 on a shipment from Los Banos.

Two of the above claims have been declined by Wells Fargo & Company. J. Hofman & Sons Company have been receiving veal shipments for the past four years from stations on the west side of the San Joaquin Valley, purchases being made on a consignment and commission basis and losses, if any, being charged against the account of shippers.

M. W. Hahn, manager of Horstman, Hahn & Company, wholesale butchers, testified that his company received an average of three hundred calves per week, shipments being principally received from the east side of the San Joaquin Valley and arriving at the Ferry Building in San Francisco between 7.00 and 8.00 p.m. No complaint is to delay or loss had been in evidence regarding shipments from the east side of San Joaquin Valley, but on shipments from Los Banos claims had been made as follows: October 16, 1917, in amount \$29.05; October 17, 1917, in amount \$9.77; October 18, 1917, in amount \$83.76; October 19, 1917, in amount \$25.62. Horstman, Hahn & Company purchase their calves at point of origin and handle few, if any, on a consignment or commission basis.

The movement of dressed veal shipments by express from points on the west side of the San Joaquin Valley to San Francisco is necessarily governed on the portion of route to and including the station of Tracy by the frequency of the passenger train service on such route. The west side of the San Joaquin Valley between Fresno and Tracy has less train service due to the smaller communities to be served. The volume of revenue derived from the handling of veal shipments on the west side of the San Joaquin Valley does not justify an order directing the Southern Pacific Company to change the schedule of Train 35 in order that a better connection be made at Tracy, thereby inconveniencing the passenger patrons and interfering with a schedule of some years' standing which furnishes connection at Fresno with communities located south of that station.

As regards the transfer of the express car containing the veal shipments from Train 35 to Train 181 and thereby ensuring the earlier arrival of the shipments at Oakland Pier and subsequent transfer to San Francisco: Train 181 is a fast train originating at Sacramento and connecting at Stockton with a through car originating on the Sierra Railway. The schedule is strung for a five-car train and if an additional car were to be placed on this train it would result in a material reduction in the scheduled speed and the possible addition of a helper engine between Tracy and the summit of the Altamont grade. A speed restriction of 40 miles per hour is also imposed through Niles Canyon and difficulty is experienced in keeping the train on scheduled time with the present equipment, records showing that on twelve days in the month of November, 1917, the regular ferry connection from Oakland Pier to San Francisco was not protected.

At the hearing in this proceeding the counsel for Wells Fargo & Company expressed a willingness to give any service to their patrons that could be accomplished by the schedules of the Southern Pacific Company, but that as express matter was handled on passenger train, the available schedules were the determining factor in the performance of the express service.

The Southern Pacific Company at the present time is under the necessity of conserving fuel and motive power and I am not willing to recommend an order that the express car handling these veal shipments be hauled from Tracy to Oakland Pier on Train 181 when the use of a helper engine will be necessary and the schedule of a fast train will be seriously impaired, resulting in delay to patrons who for years have been furnished this expedited service. The situation is further complicated by the fact that between the hours of 5.00 and 7.00 p.m. no

express matter is allowed on the ferry boats between Oakland Pier and San Francisco in order that the rush hour travel of the commuters may be expeditiously served.

The handling of express matter on passenger trains can not be considered as having priority over the needs of the passenger traffic for which the trains are primarily operated and if a commodity handled by express is of such a perishable nature that damage occurs by a delay in transit which can only be obviated by a readjustment of passenger train schedules, the remedy would appear to be for a different method of transportation to be arranged. I therefore suggest that arrangements be made by the complainants to ship their dressed veal in iceed cars, at least during the months of the year when high temperatures are prevalent in the San Joaquin Valley and at Tracy where the express car is transferred from Train 35. While the handling of these shipments under refrigeration will result in an additional charge, it should ensure the arrival of the highly perishable food product at destination in a satisfactory condition and without damage resulting in the condemnation of shipments and consequent loss.

After careful consideration of all the evidence in this proceeding, I am of the opinion and find as a fact that the request of the complainants that the Southern Pacific Company and Wells Fargo & Company be ordered to handle these veal shipments from Tracy to Oakland Pier on Train 181 is not justified and would materially interfere with the demands of the passengers patronizing such train by considerably reducing its schedule between the above points.

I suggest the following form of order:

#### ORDER.

A public hearing having been held in the above-entitled proceeding and the matter having been duly submitted and the commission being fully advised and basing its order on the finding of fact as set forth in the foregoing opinion.

*It is hereby ordered* that this complaint be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirtieth day of January, 1918.

## DECISION No. 5087.

EMILY MACKEY ET AL.

vs.

CALIFORNIA TELEPHONE AND LIGHT COMPANY.

Case No. 1168.

*Decided January 31, 1918.*

It is held not unreasonable to require that a telephone utility extend, at its own expense, service to some five prospective consumers, when the cost of such extension would approximate \$478.45 with an annual exchange revenue of \$105.00 and a total operating expense, including depreciation, of \$76.92.

Defendant directed to extend service to each of complainants within a period of thirty days, provided that each of said complainants shall sign an agreement to take continuous service for a period of not less than two years.

*L. E. Fulwider*, for Complainants.

*W. P. Ferguson*, for Defendant.

BY THE COMMISSION.

**OPINION.**

This is a complaint against the California Telephone and Light Company, a corporation, for refusal to furnish telephone service to Emily Mackey, Carter L. Pedrotti, Peter N. Raighetti, Jos. T. Roche, and Geo. A. Lasher, complainants, unless the complainants first pay the defendant a certain sum covering a portion of the cost of furnishing such telephone service.

Complainants reside in a section known as Rancho Llano de Santa Rosa along the Steney Point road extending southwest of the city of Santa Rosa.

The California Telephone and Light Company, defendant, furnishes a general telephone service throughout sections of Sonoma, Lake, Mendocino and Napa counties, with its principal place of business at Santa Rosa.

In the material portions of defendant's answer, admission is made that telephone service to complainants was refused, alleging that the cost of the necessary extension would be in excess of \$560.00; that the revenue to be derived would not exceed the sum of \$1.75 per month from each complainant; that there would be no assurance that complainants would continue to be telephone subscribers of defendant; that to require defendant to build such extension at its own expense would be unreasonable and confiscatory and would be requiring defendant to expend a sum of money upon which it would receive no return whatsoever; and that there is very little likelihood that other subscribers can be obtained on this extension.

A public hearing was held in Santa Rosa January 7, 1918, before Examiner Encell.

The residence of the nearest complainant to the present telephone line of defendant is that of Emily Mackey, located a distance of one-half mile. The location of the farthest complainant, Mr. Pedrotti, from the above line is two miles. At the hearing the fact was brought out that it would be necessary to set from one to four poles on the private property of complainants Pedrotti and Lasher, in order to furnish service to said complainants. Pedrotti and Lasher agreed to bear this portion of the expense. All of complainants are located within the area purported to be served by defendant as shown by the following rates on file with the Railroad Commission.

*Santa Rosa Suburban Residence Service.*

	To one mile	To three miles	To eight miles
Four-party per month.....	\$2 00	\$2 50	\$5 00
Ten-party per month.....	1 50	1 75	2 50

NOTE. Add 25 cents per month for desk set. Add 25 cents per month for business service.

Each of the complainants alleges that the premises where service is desired are located between the above one and five mile limits.

The Railroad Commission has in its Decision No. 2879 (Vol. 8, Opinions and Orders of the Railroad Commission, page 372) laid down certain general rules in relation to the extension of service by water, gas, electric and telephone utilities in this state. The extension sought in this case lies within unincorporated territory and of the rules above referred to the following is applicable:

*“Rule 16.* A water, gas, electric or telephone utility shall make such reasonable extensions in unincorporated territory at its own expense, as it can agree upon with the applicant for service, provided that in any case in which the construction of an extension at the utility's sole expense will in its opinion work an undue hardship upon the utility or its existing consumers, the matter may be submitted to the commission as provided by section 36 of the Public Utilities Act, unless satisfactorily adjusted by an informal application to the commission.”

Prior to the hearing in this matter and during the course of the informal negotiations between the complainants and defendant, the commission's engineers checked the defendant's estimate of construction cost for the extension in question. Defendant's estimate for the extension as filed at the hearing was \$568.74. The estimate of the commission's engineers was \$478.45, a difference of \$90.29. This difference is due chiefly to a difference in cost of sawed redwood poles as shown by these two estimates. No change was made in defendant's percentages for miscellaneous material, overhead expenses and omissions. The total

of the amounts represented by the percentages equals 14.5 per cent of the estimated cost of necessary material.

The commission is at the present time engaged in an investigation (Application No. 2171) of defendant's telephone business as a whole and in connection with which the reasonableness of defendant's claimed overhead percentages will be decided. For the purpose of this proceeding the defendant's overhead percentages will be accepted although the commission at this time is not passing upon their reasonableness.

Defendant also submitted an estimate showing the proportion of existing lines chargeable in building this extension. We are of the opinion in this case that it would be fair to both the complainants and defendant if the complainants are required to pay their portion of the operating expenses and an allowance for interest and depreciation upon the investment required to make the extension, leaving any proportionate cost of the existing lines and applicable expenses upon the general system to be cared for by the connection of new subscribers upon the present lines.

A statement of operating revenue and expenses for the year 1916 covering the Santa Rosa Exchange was submitted by defendant. This statement shows a deficit of \$2,691.99. Included in the operating expenses is a charge for interest at 8 per cent amounting to \$3,499.60. Deducting this amount to determine the total of the operating accounts, leaves a net operating revenue of \$807.61. The reasonableness of defendant's revenue and expenses at Santa Rosa will be considered in Application No. 2171 hereinbefore referred to. For the purpose of the complaint herein, the financial condition of defendant's telephone business as a whole will be one of the factors taken into consideration.

Complainants introduced testimony at the hearing to the effect that many of the residents who are located within a short distance from complainants have expressed a desire for telephone service. In reference to this statement defendant's representatives testified that no canvass of the territory in question had been made for the purpose of securing additional subscribers. We feel certain from the testimony that defendant will be able to secure several additional subscribers.

From an investigation of the operating expenses and operating revenue of defendant, statements of which are on file with the commission, and while it does not follow that each extension ordered by this commission must be self-supporting, we find that the revenue to be derived from the complainants for exchange service will yield a gross annual return sufficient to cover the complainants' proportion of the operating expenses and also a reasonable allowance for interest, taxes, deprecia-

tion, insurance, etc., upon the investment necessary to make the extension. This is shown by the following table:

	Mackey, Roche, Raighetti, Lasher, and Pedrotti
Railroad Commission estimate cost of investment.....	\$478 45
Annual exchange revenue.....	105 00
Operating expense, year ending December 31, 1917 (48.2%).....	50 61
Depreciation (5.5%).....	26 51
Total operating expense.....	76 92

The commission realizes the difficulties experienced by all public utilities during the present abnormal period due to the war activities. The high cost of money and difficulty in securing it, the scarcity and the high cost of material and other factors, must of necessity be taken into consideration.

Considering all of the factors entering into this matter, as hereinbefore referred to, the commission is of the opinion that the return to the defendant is sufficient to warrant the construction of this extension at its own expense, under the conditions specified in the following order and is not such a burden but what can be reasonably absorbed in the profits of the business.

#### ORDER.

Complainants having applied to the Railroad Commission for an order compelling defendant, California Telephone and Light Company, a corporation, to construct its line and furnish telephone service, without any cost to complainants for such construction; and the commission, after a public hearing, having fully considered all of the facts as set forth in the preceding opinion and being fully advised in the premises,

*It is hereby ordered* that defendant, California Telephone and Light Company, shall within thirty days from the date of this order construct such extensions as may be necessary to provide telephone service to complainants herein; provided, that before the necessary extensions are constructed as hereinabove prayed for, the complainants shall each execute an agreement to take from defendant continuously telephone service for a period of not less than two years from the date of its installation pursuant to the within order.

The commission reserves the right to make such further orders in this proceeding as may be advisable in the premises.

Dated at San Francisco, California, this thirty-first day of January, 1918.



## Decision No. 5089.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY, CENTRAL PACIFIC RAILWAY COMPANY AND PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING AND APPROVING A PROPOSED AGREEMENT WITH REFERENCE TO WATER RATES IN PLACER COUNTY.

Application No. 3478.

*Decided January 31, 1918.*

Schedule of rates for water to be delivered by Pacific company to the railroad companies, as contained in a proposed agreement to be entered into by parties in interest, approved and ordered filed as the rates of the Pacific company for such service, it being held that the commission's approval to the execution of the proposed contract itself is not necessary.

THELEN, *Commissioner*.

**OPINION.**

On July 27, 1917, the Railroad Commission made and filed its opinion and order in Application No. 1831, being application of Pacific Gas and Electric Company for an order establishing the rates to be charged by it to consumers of water in Placer County other than irrigation consumers. Referring to water delivered by Pacific Gas and Electric Company to Southern Pacific Company at various points on the latter company's right of way in Placer County, the opinion reads in part as follows:

"The delivery of water by the Pacific Company (Pacific Gas and Electric Company) to the Southern Pacific Company at its various railroad stations in Placer County involves considerations different from those obtaining as to other customers. For some time the two companies have been trying to agree on proposed rates to be submitted to the Railroad Commission for approval. To date, no such agreement has been reached. The matter of the rates to be charged by the Pacific company to the Southern Pacific Company will be held in abeyance and will hereafter be established."

The parties have now agreed on the rates to be charged by Pacific Gas and Electric Company for all the water sold to Southern Pacific Company and have filed their petition herein asking that the Railroad Commission make its order authorizing the parties to execute an agreement in substantially the form of the instrument filed together with the petition and approving the rates, terms and conditions as set forth in the proposed agreement.

The draft of agreement specifies the rate to be charged by Pacific Gas and Electric Company for water sold to Southern Pacific Company at

the following points: Forebay, Towle, Gold Run, Cape Horn, West Applegate, East Applegate, Bowman, Auburn, Nevada Street; Auburn, Old Station; Newcastle, Penryn, Lincoln Avenue; Penryn, Old Station; Loomis and Rocklin.

The rates thus agreed upon are reported by the commission's hydraulic division to be reasonable.

The form of the proposed agreement contains a number of provisions which are more appropriate to a private contract entered into between private parties than to a rate filed by a public utility, but it will not be necessary to consider these matters herein for the reason that the Railroad Commission's authority to the execution of this contract is not necessary and that the order herein will be limited to the filing by Pacific Gas and Electric Company of the rates specified in the proposed agreement.

It will, of course, be understood that the execution of the proposed agreement by the parties thereto will not in any way preclude the state, through its properly constituted authorities, from hereafter supervising and regulating the utility in all respects specified by law with reference to its service of water in Placer County.

I submit the following form of order:

**ORDER.**

Good cause appearing,

*It is hereby ordered* that Pacific Gas and Electric Company be and the same is hereby authorized to file with the Railroad Commission its rates for water to be sold by it to Southern Pacific Company and Central Pacific Railway Company in Placer County, as specified in form of agreement between Pacific Gas and Electric Company, Southern Pacific Company and Central Pacific Railway Company, filed together with the petition herein, these rates to be subject to the power of the Railroad Commission to change, alter or amend the same at any time.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirty-first day of January, 1918.

## DECISION No. 5090.

IN THE MATTER OF THE APPLICATION OF JAKEWAY & GEORGESON  
TRUCK COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY TO OPERATE TRUCK SERVICE BETWEEN EAST  
SAN PASQUAL AND SAN DIEGO.

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Application No. 3378.

*Decided January 31, 1918.*

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Applicants apply for permission to operate an automobile truck service for the transportation of freight and express matter between San Diego and East San Pasqual, and it appearing that there is insufficient traffic between such points to support more than the one company which is at present in operation, petition denied.

As automobile transportation companies are subject to the jurisdiction of the Railroad Commission, complaints against such companies as to discrimination in rates or service should be made to the commission and not attempted to be remedied through the establishment of competing lines.

*Harrison G. Sloane*, for Applicant.

*W. Wirt Francis*, for Elmer Webb, Protestant.

*Warren E. Libby*, for Pickwick Stages.

BY THE COMMISSION.

**OPINION.**

T. R. Jakeway and E. C. Georgeson, partners in business, request that the Railroad Commission make its order declaring that public convenience and necessity require the operation by applicants of an automobile truck line as a common carrier of freight between East San Pasqual and San Diego.

Description of equipment proposed to be operated in this service is as follows: Two Moreland automobile trucks, 40 horsepower, 2½ ton capacity, State Motor Vehicle Department license Nos. 211041 and 338674.

Applicant proposes to operate two round trips daily between terminals, and to charge rates in accordance with a schedule filed as an exhibit with the application in this proceeding. The terminal in San Diego is to be at Twelfth and K streets and the terminal in East San Pasqual is to be at the easterly limits of the free delivery route as established by the United States Post Office Department.

A public hearing was held by Examiner Euclid at San Diego on January 4, 1918, the matter was duly submitted and is now ready for decision.

Applicants rely on the alleged fact that there is no transportation available for dairy products which originate in East San Pasqual and are marketed in the city of San Diego, and that there is no truck service between San Diego and Escondido, although service is furnished by

The Atchison, Topeka and Santa Fe Railway via Oceanside and the Escondido Branch.

It appears from the evidence in this proceeding that the San Pasqual Valley Truck Line, owned by Elmer L. Webb, has operated auto truck service as a common carrier of freight since February 1, 1915, and that this line was operating in good faith prior to May 1, 1917, and was therefore an established transportation company as defined by the provisions of chapter 213, laws of 1917. This line operated regularly between San Pasqual and San Diego and also performed a pick-up and delivery service at both terminals and on the route. Due to some controversy between Webb and his patrons regarding rates and service in the handling of dairy products from San Pasqual to San Diego, the dairy producers advertised for bids for the transportation of their product and the contract for hauling the dairy products was awarded to the lowest bidder. The successful bidder was not able to perform the service due to an accident and the Webb line took over the contract. In a few months another controversy arose over the matter of rates and service and the milk producers engaged the applicants, Jakeway and Georgeson, to handle their product. There is not sufficient business to support two truck lines or to render a reasonable return to one line if only dairy products are to be handled, and the hauling of other freight is necessary to the conduct of a profitable business.

It further appears that the entire controversy regarding rates and service for the dairy products arose from a misunderstanding as Webb, as proprietor of the San Pasqual Valley Truck Line, was obligated to give service in accordance with his published schedules and at rates as lawfully on file with this commission. The shippers and patrons of Webb's line should have complained to the commission as to any lack of service or discrimination in the matter of rates, or if same were deemed unreasonable. It now appears that schedules are in effect which offer satisfactory rates and service and that same are acceptable to the patrons of the San Pasqual Valley Truck Line.

After careful consideration of the evidence in this proceeding, we are of the opinion and find as a fact that public convenience and necessity do not require that applicants operate a truck line as a common carrier of freight between East San Pasqual and San Diego.

#### ORDER.

T. R. Jakeway and E. C. Georgeson, partners in business, having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by them of an automobile truck line as a common carrier of freight between East San Pasqual and San Diego, a public hearing having been held, the matter having been submitted and being now ready for

decision, the Railroad Commission hereby declares that public convenience and necessity do not require the operation by T. R. Jakeway and E. C. Georgeson, partners in business, of an automobile truck line as a common carrier of freight between East San Pasqual and San Diego; and

*It is hereby ordered* that this application be and the same hereby is denied.

Dated at San Francisco, California, this thirty-first day of January, 1918.

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DECISION No. 5092.

IN THE MATTER OF THE APPLICATION OF BUTTE AND PLUMAS RAILWAY COMPANY, SWAYNE LUMBER COMPANY AND SOUTHERN PACIFIC COMPANY TO DISCHARGE A MORTGAGE, EXECUTE A NEW MORTGAGE AND ISSUE A NOTE.

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Application No. 3158.

*Decided January 31, 1918.*

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A railroad company constructed and operated by lumber companies solely for the purpose of handling the products of such lumber companies and not engaged in the transportation business as a common carrier, may execute a mortgage and issue securities thereunder without first securing permission of this commission, irrespective of the fact that its articles of incorporation provide that it may, if desired, engage in the transportation business as a common carrier. Butte and Plumas Railway Company found to be a private corporation and not a public utility, application dismissed.

W. M. Singer, for Applicants.

EDGERTON, *Commissioner*.

OPINION.

Butte and Plumas Railway Company, Swayne Lumber Company and Southern Pacific Company join in an application for an order authorizing Southern Pacific Company to satisfy and discharge a mortgage executed by Butte and Plumas Railway Company dated June 8, 1910, and to cancel Truckee Lumber Company's note dated September 1, 1911; and authorizing Butte and Plumas Railway Company and Swayne Lumber Company to execute a mortgage and a promissory note.

Evidence introduced at the hearing clearly shows that the acts for which authorization is requested may be performed without the authorization of this commission.

Southern Pacific Company has power, without the authorization of this commission, to cancel promissory notes and discharge mortgages.

The evidence affirmatively shows that while the articles of incorporation of Butte and Plumas Railway Company provide that it shall engage in the business of a common carrier, carrying passengers, personal property, express matter, United States mail and freight for hire, it has never operated as a common carrier. It has been operated entirely as an adjunct of the Truekee Lumber Company and the Swayne Lumber Company. It has had no revenue and has received no compensation for services performed for these lumber companies nor has it ever performed services for hire for any other person or corporation.

The lumber companies have provided the money for maintenance, repairs and operation of the railroad property and have treated the railroad as a part of the machinery of producing lumber.

Furthermore, representatives of Swayne Lumber Company, which company entirely controls this railroad, announced that it was the intention in the future not to enter into the business of performing service for hire. On the contrary, the purpose was and is to use this railroad solely for the convenience and the business of the lumber companies.

As the Supreme Court of this state has made the test of public utility status to be the acts and performance of a person or company, rather than the statement in the articles of incorporation, I recommend that it be declared that Butte and Plumas Railway Company is not a common carrier or a public utility and that therefore it may execute a mortgage upon its property without the authorization of this commission and that this application be dismissed.

#### ORDER.

Application having been made by Butte and Plumas Railway Company, Swayne Lumber Company and Southern Pacific Company as hereinbefore stated and it appearing to the commission, for the reasons set out in the foregoing opinion that Butte and Plumas Railway Company is not a common carrier nor a public utility and that all of the acts for which authorization is asked in this application may be performed without the authorization of this commission,

*It is hereby ordered* by the Railroad Commission of the state of California that the foregoing application be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this thirty-first day of January, 1918.

## Decision No. 5093.

IN THE MATTER OF THE APPLICATION OF J. BENTON VAN NUYS, KATE VAN NUYS PAGE, AND ANNIS VAN NUYS SCHWEPPE, DOING BUSINESS UNDER THE NAME OF VAN NUYS WATER SYSTEM, TO INCREASE RATES.

Application No. 3303.

*Decided February 2, 1918.*

1. Only the value of lands and equipment actually used in the public service will be allowed when establishing a base for rate-fixing purposes. The entire value of four wells sunk so close together that only two can be operated at one time without seriously affecting the others, together with unnecessary pumping equipment, not allowed in the present proceeding.
2. The service value of wells and tunnel permitting a gravity flow to reservoir of applicant, is measured by the saving in cost of pumping, which saving is capitalized at 8 per cent and the annuity and maintenance and operating expense heretofore expended on such equipment added.
3. Applicant is not permitted to claim a value for water rights in the present instance as the commission has uniformly held that percolating water passing through the soil has no value separate and distinct from the land. Water properties which have been improved through agricultural development and are producing an income not included in the water company's revenues will not be included at their increased value due to such agricultural development.
4. Revised schedule of metered and flat rates established for domestic and irrigation service, including a monthly minimum for all classes ranging from \$1.00 for  $\frac{3}{4}$ -inch service to \$1.50 for 2-inch service.

*Oscar C. Mueller*, for Applicants.

*H. S. Farrell*, for city of San Gabriel.

*LOVELAND*, Commissioner.

## OPINION.

J. Benton Van Nuys, Kate Van Nuys Page and Annis Van Nuys Schweppe, a copartnership doing business under the name Van Nuys Water System, hereinafter referred to as applicant, own and operate a public utility water system in and in the vicinity of San Gabriel, Los Angeles County.

This application, filed November 1, 1917, alleges in effect that the present rate schedule does not provide a fair and adequate return on the investment, and the necessary depreciation and operating expenses, and prays that fair and just rates be established. The present rate schedule follows:

## Domestic and commercial metered:

Minimum 1,000 cubic feet or less .....	\$1 25	per month
Each additional 100 cubic feet .....	07½	per month
Domestic and commercial flat—minimum .....	1 25	per month
Stores and business places .....	1 25	per month
Blacksmith shops, for each forge .....	50	per month
Irrigation: For each 1,000 cubic feet .....	41½	per month
Twenty-five weir inches for ten hours .....	3 50	
(A weir inch being 1.25 of the amount of water passing 2 inches in depth over a weir having a crest length of 12½ inches.)		

Public hearing was held in the proceeding on November 9, 1917, in Los Angeles.

The water supply for this system is obtained from wells sunk in the water-bearing strata of the Pasadena Mesa, above the Raymond Hill Dike, which is comprised of a soft miocene sandstone and extends from Arroyo Seco in a northeasterly direction past Oak Knoll to Monrovia. It is a barrier to the flow of the water and forms a natural underground reservoir. The principal stream draining into this basin is the Arroyo Seco with its tributary, Millard Canyon. The watershed of this stream is located in the San Gabriel mountains. Part of the water goes down Arroyo Seco to the Los Angeles River, while the balance goes underground to Pasadena Mesa.

A tunnel and pipe lines have been constructed extending from the wells to a small concrete-lined distribution reservoir having a capacity of 1,095,000 gallons. The tunnel is constructed at such elevation that during the period of the year when the inflow of the underground reservoir is large, water is transmitted by gravity from the wells to the reservoir. At other periods of the year when the inflow is small and the extractions from the underground water supply lower the water plane, it is necessary to lift the water by pumping. From the reservoir water is transmitted and distributed by steel and iron pipes to the inhabitants of the city of San Gabriel and vicinity for domestic and irrigation uses.

For convenience the discussion will be divided as follows:

- I. Value.
- II. Maintenance and Operation Expense.
- III. The Rate.

#### I. *Value of System.*

Appraisals were submitted by George A. Damon for applicant and by C. H. Loveland and J. G. Walther for the commission. A tabulated summary of these appraisals exclusive of real estate follows:

Item	Applicant's engineers, cost, new	Present value	Commission's engineers, cost, new
Wells and pumping equipment.....	\$11,631 00	\$7,323 00	\$17,202 00
Reservoir .....	4,828 00	3,862 00	4,910 00
Transmission and distribution system.....	36,408 00	28,419 00	46,452 00
Services and meters.....	8,950 00	5,585 00	13,797 00
General equipment .....	5,827 00	5,263 00	1,050 00
Easements .....			550 00
Additions to capital, 1915.....	5,527 00	5,527 00	
Additions to capital, 1916.....	4,519 00	4,519 00	
Totals .....	\$77,690 00	\$60,528 00	\$83,961 00

No appraisal was made by Mr. Damon of additions to plant since January 1, 1915. The actual cost is shown in applicant's Exhibit No. 4.



and is added to the total of Mr. Damon's appraisal shown above. An arithmetical error has been corrected in the summary of commission's Exhibit No. 1. Applicant's engineer stated that in his opinion a number of items in his report were appraised at less than cost of installation, but vouchsafed no information as to what sum should be included.

The commission's engineers appraised the property on a basis of average prices for material and labor over the period of five years directly preceding the recent abnormal increase due to war conditions. After carefully considering these facts I am of the opinion that the estimate submitted by the commission's engineers is fair.

Attention is called to the fact that the cost new of a utility property may not represent the value used in the service of the public. In the leading case of *Smythe vs. Ames*, 169 U. S. 464, page 547, the United States Supreme Court says "What a company is entitled to ask is a fair return upon the value of that which it employs for public convenience."

The commission's hydraulic engineers testified that from the sum reported above they proposed to deduct the appraised cost of wells and pumping equipment, unnecessary in the operation of the system, and meters and services owned by the consumers.

The pumping records submitted in commission's Exhibit No. 3, show that the utility's four wells are not operated at one time, the practice being to operate in pairs. If all the wells are operated at one time the draw down of the water plane is so large that two of the pumps lose their priming. Thus the utility has in reality only two effective wells. This shows that the wells are located in such proximity that each affects the water supply of the others. In view of this condition it is reasonable to assume that all the wells are not effective water producers, and the consumers should not bear this burden.

The service value of these wells and the tunnel by means of which water flows by gravity from the wells to the reservoir at certain periods of the year is measured by the saving in cost of pumping this water which flows by gravity. Mr. Damon testified that the saving amounted to between \$400.00 and \$500.00 annually. The record shows that during 1916 4,696,730 cubic feet of water flowed by gravity, or a saving of \$470.00 computed at the cost of pumping submitted by the utility. Capitalizing this at 8 per cent we find a service value of these structures of \$5,870.00.

I recommend that this sum be included together with the annuity and such maintenance and operation expense as has heretofore been expended on this equipment. The estimated cost of these plants (Nos. 14 and 36) and tunnel is \$18,971.00.

Estimates of the value of real estate were submitted by Mr. Damon for the utility and Mr. G. Daken for the city of San Gabriel. Mr. Damon contended for a value of \$2,500.00 per acre, while Mr. Daken

testified to a value of \$1,000.00 per acre. Mr. Damon considered the value from a suburban residence standpoint, as well as agricultural and residential uses. Mr. Damon added \$1,500.00 per acre for its strategic location for water-bearing purposes. The commission's engineers testified that on land similarly located, the water-bearing lands above the Raymond Hill Dike sold for \$1,500.00 per acre, while the same quality of land below the dike sold for from five to six hundred dollars per acre or a differential of \$1,000.00 per acre. Mr. Damon stated that in his belief the value for water rights is a function of the quantity of water flowing; that he made no appraisal of this item and that applicant at this time is not asking for their inclusion. In spite of this there is included the above-mentioned sum of \$1,500.00 per acre as a value of the land for water-production purposes, which is undoubtedly a value for water rights. It has been clearly established by numerous decisions of courts and commissions that percolating water passing through the soil has no value separate and distinct from the land.

The five acres claimed as a part of the water property has been developed and now has bearing orchards and alfalfa on it. This improvement occurred subsequent to the construction of the water plant. The income from these trees is not included in the revenue of the water plant as shown herein. To sustain the value claimed by applicant it should at least pay the interest on that increment of value due to its uses for agricultural purposes. The only uses of the land which are being withheld from applicant due to its dedication to the public, are its uses for residential and water-producing purposes. The evidence shows that approximately one-half of the area claimed is at present used for water property. No inclusion has been made by applicant of an amount for going concern, development of business, or franchise value.

After carefully considering all the evidence I find as a fact that the value of applicant's water plant for the purposes of this proceeding is \$70,158.00.

## II. *Maintenance and Operation Expense.*

A tabulation of maintenance and operation expense from the annual reports of applicant follows:

	1914	1915	1916
Operating labor and expense.....	\$3,241 00	\$2,357 00	\$2,967 00
Distribution system, labor and expense.....		2,286 00	121 00
Repairs to district and transmission capital.....	22 00	100 00	1,066 00
Collection and promotion of business.....	1,200 00	1,763 00	2,080 00
General expense.....	724 00	1,370 00	2,399 00
Taxes.....	736 00	271 00	252 00
<b>Totals</b> .....	<b>\$6,000 00</b>	<b>\$8,147 00</b>	<b>\$8,885 00</b>
11-41120			

The report of the commission's engineers shows that the maintenance and operation expenses for the year November, 1916, to October, 1917, inclusive, are \$8,477.00. After eliminating certain items not properly chargeable to this account, they report the sum of \$8,134.00. In view of the facts that additional state and federal taxes have been levied and the increased cost of labor and materials, I am of the opinion that \$8,500.00 should be included in the annual charges for this element.

A summation of the annual charges follows:

Interest on \$70,158.00 at 8 per cent.....	\$5,613 00
Sinking fund annuity .....	2,214 00
Maintenance and operation expense.....	8,500 00
Total.....	\$16,327 00

### III. *The Rates.*

The revenue as shown by the annual reports of the company follows:

#### *Operating Revenue.*

Item	1914	1915	1916
Commercial earnings flat and metered rate..	\$8,693 00	\$9,362 00	\$10,352 00
Irrigation .....	3,268 00	3,626 00	3,648 00
Totals .....	\$11,961 00	\$12,988 00	\$14,000 00

The income for the ten months of 1917 available as shown in commission's Exhibit No. 3 is \$13,465.00. Adding to this the income for November and December, 1916, shows that the income for that twelve-months period was at least \$15,600.00.

Applicant owns and operates a ranch of some forty-eight acres of which approximately thirty acres are planted in oranges, alfalfa and miscellaneous crops which are irrigated. No record of the use of water for the irrigation of this ranch is kept. The evidence shows that the probable annual use for this purpose will approximate 2,000,000 cubic feet, which at the present rates would produce a revenue of \$825.00.

The city of San Gabriel contemplates the installation of eighteen fire hydrants. Both applicant and the city ask that a rate be established for water used for fire fighting purposes. I shall recommend that a charge of \$25.00 per month be put into effect.

The total gross revenue which the company would receive if operating under its present schedule of rates is less than the total annual charges as set out herein. The existing rate schedule does not equitably distribute the charges among the various consumers and I recommend that the form of rates be changed. The rate schedule set out in the order following will produce annually at least the sum of \$16,600.00.

**ORDER.**

Public hearing having been held in the above-entitled proceeding and said proceeding having been submitted and being now ready for decision, it is hereby found as a fact that the rates charged by J. Benton Van Nuys, Kate Van Nuys Page, and Annis Van Nuys Schweppe, a copartnership, doing business under the name of Van Nuys Water System, for water used for domestic and irrigation purposes in so far as they differ from the rates set out in this order are unremunerative and unjust, and the rates set out in this order are remunerative, just and reasonable.

Basing this order on the foregoing finding of fact and on each statement of fact contained in the opinion preceding this order,

*It is hereby ordered* that the following be and the same are hereby declared to be the rates to be charged by the Van Nuys Water System, to wit:

*Domestic, Industrial and Commercial.*

## Measured rates:

First 2,000 cubic feet.....	\$0 125 per 100 cubic feet
Above 2,000 cubic feet.....	00 per 100 cubic feet

## Flat rate:

Residences, stores and business places.....	\$1 25 per month
Blacksmith shops, for each forge.....	50 per month
Fire service, city of San Gabriel.....	25 00 per month

*Irrigation.*

For each 100 cubic feet.....	\$0 01
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*Monthly Minimum All Classes of Use.*

¾-inch service.....	\$1 00
1-inch service.....	1 25
2-inch service.....	1 50

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this second day of February, 1918.

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Decision No. 5096.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE GENERAL AND REFUNDING MORTGAGE GOLD BONDS OF THE FACE VALUE OF THREE MILLION DOLLARS.

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Application No. 3384.

*Decided February 4, 1918.*

Owing to the difficulty in financing during the war, recommendation made that all utilities so conserve their finances that they can, as readily as possible, secure funds for necessary increases in production and the maintenance of efficient

systems, also that all expenditures for improvements not immediately necessary be deferred pending a more favorable financial market and a more reasonable figure in the cost of materials and supplies. Interconnections and the joint use of facilities, wherever possible, between utilities suggested.

Applicant granted permission to use the sum of \$771,348.65, being the balance of the proceeds of an issue of bonds heretofore authorized by the commission, to reimburse its treasury covering capital expenditures made prior to August 31, 1917. Petition to issue \$3,000,000.00 face value of general and refunding bonds held in abeyance.

*C. P. Cutten*, for Pacific Gas and Electric Company.

*THELEN*, Commissioner.

#### FIRST SUPPLEMENTAL OPINION.

Pacific Gas and Electric Company asks authority to issue its general and refunding mortgage gold bonds of the face value of \$3,000,000.00 and to use the proceeds thereof and also the proceeds from the sale of its general and refunding mortgage gold bonds of the face value of \$2,500,000.00 authorized by Decision No. 3975 made on January 4, 1917, in Application No. 2675 (Vol. 12, Opinions and Orders of the Railroad Commission of California, p. 157), as well as the proceeds from the sale of the unissued first preferred stock authorized by Decision No. 3023, made on January 3, 1916, for the purpose of reimbursing its treasury for capital expenditures to August 31, 1917, and of paying for the construction, completion, extension and improvement of facilities subsequent to August 31, 1917.

By Decision No. 4997, made on December 31, 1917, in this proceeding, the Railroad Commission authorized Pacific Gas and Electric Company to use \$1,491,151.35 of the proceeds from the sale of said \$2,500,000.00 of bonds authorized to be issued by said Decision No. 3975, made on January 4, 1917, to reimburse its treasury for moneys expended for purchase of bonds of Oro Electric Corporation. The commission passed therein only on a part of the issues presented in this application.

The additional information requested at the hearing herein and referred to in said Decision No. 4997 has now been filed and under stipulation made at the hearing has been given exhibit numbers as follows:

Exhibit No. 1 of Petitioner—Letter from John A. Britton, dated December 29, 1917, enclosing letter from Mr. E. C. Jones in re construction of gas works at the Potrero, in San Francisco, and at Fresno; letter from P. M. Downing in re proposed extension of Wise tower line from Stockton to Mission San Jose; and letter from A. F. Hockenbeamer in re construction expenditures to date on specified new construction work.

Exhibit No. 2 of Petitioner—Letter from John A. Britton, dated January 7, 1918, giving maximum and average days' sendout from San Francisco and Fresno gas plants in 1917.

Exhibit No. 3 of Petitioner—Letter from E. H. Steele to Mr. P. M. Downing, dated January 7, 1918, in re cost of three different methods of transmitting electric energy from the end of the present Wise tower line to Mission San Jose.

Exhibit No. 4 of Petitioner—Letter from M. H. Bridges, dated January 29, 1918, giving specified financial data.

A final order may now be made herein.

Pacific Gas and Electric Company asks authority to use the proceeds from the sale of securities to reimburse its treasury for capital expenditures. By said Decision No. 3023, dated January 3, 1916, as amended, petitioner may on or before December 31, 1918, issue \$2,500,000.00 of first preferred stock at not less than \$90.00 per share. The company reports that up to August 31, 1917, it had sold all of this stock, except \$399,800.00 par value. There is due on stock subscriptions the sum of \$27,590.00. By said Decision No. 3975, dated January 4, 1917, Pacific Gas and Electric Company was authorized to issue \$2,500,000.00 of its general and refunding 5 per cent bonds due and payable January 1, 1942, at not less than 90 per cent of their face value plus accrued interest. These bonds were sold by the company in January, 1917, for \$2,262,500.00. The order authorizing the issue of these bonds provided that no part of the proceeds from their sale shall be expended, except as authorized by the Railroad Commission in a supplemental order. The balance due on stock subscriptions plus the proceeds from the sale of the \$2,500,000.00 of bonds aggregates \$2,290,090.00. Decision No. 4997, as hereinbefore pointed out, authorized Pacific Gas and Electric Company to use of this amount \$1,491,151.35 to reimburse its treasury. The balance of the moneys, including the unpaid stock subscriptions, now available for the reimbursement of the treasury amounts to \$798,938.65.

In Exhibit "B" attached to the petition herein, petitioner reports that it has expended for construction and the acquisition of new property to August 31, 1917, the sum of \$4,317,879.66 for which amount the company's treasury has not been reimbursed through the sale of securities. Deducting from said \$4,317,879.66 the sum of \$1,491,151.35, referred to in said Decision No. 4997, leaves a balance of \$2,826,728.31 as of August 31, 1917, for which petitioner's treasury has not been reimbursed.

In Exhibit "C," attached to the petition, the petitioner reports estimated expenditures authorized by its general manager and executive committee, as of August, 1917, amounting to \$2,906,376.59. In Exhibit "E," attached to the petition, petitioner estimates the cost of the new construction arising out of the development of its business and the addition of new consumers during the remaining portion of 1917 and all of 1918 at \$2,700,000.00. In Exhibit "E," attached to the petition, the company reports the estimated cost of the new gas works

at Fresno and the installation of additional facilities at San Francisco, together with the extensions of the Wise tower line from a point near Stockton to Mission San Jose, and the cost of surveys in Colusa County at \$1,402,866.50. The sum total of the estimated expenditures is reported at \$7,009,243.09. Adding to this the reported expenditures—\$2,826,728.31—for which the company's treasury has not been reimbursed, one obtains a total of \$9,835,971.40. As said, against this expenditure, the company has on hand or will have available the sum of \$798,938.65. Taking this amount into consideration, the company's expenditures incurred or to be incurred, as reported, for which it has made no arrangements to issue securities, amount to \$9,037,032.75. This total, however, includes reported expenditures up to August 31, 1917, in the amount of \$2,027,789.66.

To reimburse its treasury for the expenditures up to August 31, 1917, and to finance in part the expenditures referred to above, the company now desires authority to issue \$3,000,000.00 of bonds at not less than 85 per cent of their face value plus accrued interest. At the hearing, Mr. A. E. Hockenbeamer, petitioner's vice president and treasurer, testified that the market for the sale of these bonds, due to war conditions, is now unfavorable, and that petitioner does not now desire to sell these bonds. It was suggested that it might possibly be desired to use these bonds as collateral security, but Mr. Hockenbeamer testified that petitioner does not contemplate borrowing money on short term loans at this time, and in fact, hopes to finance itself through 1918 without borrowing. Under these circumstances, it will not be necessary to pass now on the issue of said \$3,000,000.00 of bonds and the petition in so far as these bonds are concerned will be held in abeyance.

Inasmuch as applicant does not propose at this time to sell said \$3,000,000.00 of bonds, it is not necessary for the commission to approve applicant's construction program in all of its details. As a matter of fact, detailed estimates in regard to much of the proposed construction have not been furnished to the commission.

In Exhibit "E," attached to the petition herein, petitioner reports estimated expenditures for the following purposes:

New gas works at Fresno.....	\$445,470 00
Enlargement of Potrero gas works, San Francisco.....	408,946 50
Extension of Wise tower line from a point near Stockton to Mission San Jose substation.....	533,450 00
Surveying double tower line from Madison north to near Maxwell, 48.6 miles.....	15,000 00
Total.....	\$1,402,866 50

On these projects, petitioner reports an expenditure to November 30, 1917, of \$91,690.14.

It is a matter of common knowledge that many public utilities as well as other enterprises will have considerable difficulty in financing new construction during the war. The general welfare requires that our electric utilities, which play so vital a part in the nation's efficiency, shall in so far as possible conserve their finances so that they may more readily be able to secure such funds as are imperatively needed to increase their production and maintain their efficiency. Expenditures which otherwise might be considered desirable, though not immediately necessary, should be deferred in favor of expenditures most urgently necessary at the moment to increase the efficiency of these utilities to help win the war. Furthermore, at a time when the cost of materials and money is abnormally high, it is in the interest of both the utility and its patrons that all work not clearly now necessary be deferred. This situation requires an analysis of proposed large expenditures, from a different point of view than was the case before the war.

The construction of the new gas works at Fresno seems to be advisable. Instead of costing \$445,470.00, it appears that the actual cash outlay for the construction of the new gas works will be approximately only \$155,170.00. The difference between the estimate and the actual cash outlay is accounted for by the fact that the company proposes to transfer from its Martin station in San Francisco considerable equipment and proposes to use equipment now installed in its old Fresno gas works.

Petitioner proposes to enlarge its Potrero gas plant at San Francisco by the installation of two new 18-foot 9-inch gas generators, with boilers, scrubbers, exhausters and all auxiliary equipment. The installation of these two new generators would increase the capacity of the Potrero plant by approximately 10,000,000 cubic feet per day. The cost of installation is estimated at \$408,946.50 in cash. Petitioner's present Potrero and Metropolitan plants have a combined capacity of 26,000,000 cubic feet per day. It is estimated that the 1917-1918 demand for gas will average 23,000,000 cubic feet and the 1918-1919 cubic feet demand will average 25,000,000 cubic feet per day. Were it to become necessary to shut down one of the larger units in either of the plants, the present plant capacity would be reduced to 21,000,000 cubic feet per day. The installation of one of the proposed new generators, with a capacity of 5,000,000 cubic feet per day, seems imperative. Such an installation will meet petitioner's needs for at least two years. The installation of the second new generator, in my opinion, might be at this time deferred.

Petitioner wishes to extend its Wise tower line from a point near Stockton to Mission San Jose substation at an estimated cost of \$588,450.00. This sum includes \$55,000.00 heretofore expended for rights of way. It appears to be necessary that more power be provided for the region south of San Francisco Bay to supply the rapidly grow-



ing load in that region, to eliminate the further consumption of fuel oil to supply this load, and to improve the power voltage regulation in that section due to the limited capacity of existing transmission lines.

However, it appears likely that the same end can be more economically accomplished in harmony with the contemplated further utilization of existing interconnection facilities between the northern California hydroelectric utilities by connecting the Wise tower line with the line of the Sierra and San Francisco Power Company at Manteca and thence utilizing the Sierra and San Francisco Power Company's line from Manteca to Mission San Jose, which can be used to carry 12,000 kilowatts of additional load. On this subject, as appears from report of the committee on electric power, Northern District of California, filed in Case No. 1176 on January 31, 1918, the engineering advisory committee reported as follows:

"We have further considered the possibility of extending the Wise-Stockton line of the Pacific company to Manteca at 60,000 volts, and connecting with the Sierra system at this point, through which connection the Sierra's line from Manteca to Mission San Jose could be used to carry up to 12,000 kilowatts of additional load. If the Wise-Stockton line of the Pacific company be changed to 100,000-volt operation, for which it was designed, a direct connection at this voltage is possible at Manteca, which will accomplish the same purpose. In any event, 100-kilovolt—60-kilovolt transformers will be necessary at either Mission San Jose or Port Marion to return this energy to the Pacific company's lines. We are of the opinion that such an interconnection would materially improve the voltage conditions in that portion of the Pacific company's network south of San Francisco Bay, and would postpone the necessity for the completion of the Stockton-Mission San Jose line of the Pacific Gas and Electric Company."

Petitioner's Exhibit No. 4 shows that petitioner has expended on its so-called Pit River project to November 30, 1917, the sum of \$445,902.21.

These expenditures are not referred to in any of the exhibits attached to the petition here. The development of this project, as appears from the testimony herein, is being opposed and contested by the Northern California Power Company, Consolidated, which claims rights to the waters of the Pit River. This matter has never before been brought before the commission and nothing herein contained shall be construed as in any way passing on this expenditure.

I recommend that petitioner be authorized to use the \$771,348.65, remaining from the sale of its \$2,500,000.00 of bonds to reimburse its treasury in part for capital expenditures incurred prior to August 31, 1917, as provided in the order herein.

I herewith submit the following form of order:

**FIRST SUPPLEMENTAL ORDER.**

Pacific Gas and Electric Company having made application for an order, as specified in the opinion which precedes this order, a public hearing having been held and the Railroad Commission finding that the purposes for which said petitioner desires to use \$771,348.65 of the proceeds from the sale of its general and refunding gold bonds, the issue of which was authorized by Decision No. 3975, dated January 4, 1917, are not in whole or in part reasonably chargeable to operating expenses or to income and that the money to be paid for said purposes is reasonably required therefor,

*It is hereby ordered* that Pacific Gas and Electric Company be and it is hereby granted authority to use \$771,348.65 of the proceeds from the sale of bonds, the issue of which was authorized by Decision No. 3975, dated January 4, 1917, to reimburse its treasury for capital expenditures incurred prior to August 31, 1917, and referred to in the opinion which precedes this order. This authorization is subject to the condition that on the twenty-fifth day of the month after such reimbursement has been made, the Pacific Gas and Electric Company shall make a verified report to the Railroad Commission showing the use and application of such moneys, and designating with such particularity that they can be readily identified the particular expenditures against which the reimbursement is made, in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

*It is hereby further ordered* that the application herein for authority to issue \$3,000,000.00 of general and refunding gold bonds at not less than 85 per cent of their par value be and the same is hereby held in abeyance.

The foregoing first supplemental opinion and first supplemental order are hereby approved and ordered filed as the first supplemental opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fourth day of February, 1918.

## DECISION No. 5097.

## CITY OF SAN JOSE

VS.

## SOUTHERN PACIFIC COMPANY AND THE WESTERN PACIFIC RAILROAD COMPANY.

Case No. 1152.

*Decided February 4, 1918.*

1. The Railroad Commission is required to consider applications made under section 43 of the Public Utilities Act, covering grade crossings, from a standpoint of public safety only and not upon the question of public convenience and necessity.
2. The construction of several small freight depots in the city of San Jose would be just as convenient, if not more so, to the shippers of the city, than the construction of one union freight depot, and as there would be little if any transfer of passengers from one railroad to the other there is practically no need of a union passenger depot at this time.
3. There is no reasonable excuse for the duplication by Western Pacific Company of Southern Pacific Company's line, Niles to San Jose, especially when the existing line is ample to take care of all of the business of both companies for years to come. The cost of new construction would be far more beneficially expended in double tracking and block signalling the present line.
4. As several carriers in the state have been for some time operating in a satisfactory manner, over the same trackage, a similar arrangement is suggested in the present instance with reference to the proposed construction of Western Pacific Company from Niles to San Jose, provided such construction is authorized by the Director General of Railroads.
5. The Railroad Commission is not in favor of a railroad company traversing a high-class residential district of a city for the purpose of reaching the industrial section unless it is absolutely necessary, accordingly, it is suggested that the Western Pacific Company use Southern Pacific Company's trackage as far through the city, including the proposed main line and Santa Cruz branch, as is necessary to reach existing industries.
6. When a problem is presented before a regulatory body, the most logical solution of which can not be legally enforced, through lack of sufficient jurisdiction, such body should, nevertheless, advance constructive suggestions covering the subject irrespective of whether or not it can compel the execution of such plans.
7. Investigation showing that there is no need for union passenger or freight depots in the city of San Jose, that the protection of proposed grade crossings, as required in the order granting permission for their construction, is satisfactory, and the commission not having sufficient jurisdiction to grant other relief requested, complaint dismissed.

*Earl Lamb*, city attorney, for city of San Jose.*George D. Squires* and *Elmer Westlake*, for Southern Pacific Company.*Allan P. Mathew* and *A. R. Baldwin*, for The Western Pacific Railroad Company.*L. D. Bohnett* and *C. B. Allen*, for Palm Haven Investment Company.*L. D. Bohnett* and *Grant R. Bennett*, for Willow Glen Improvement Club.*G. M. Fontaine*, for City Planning Commission.*G. M. Fontaine* and *W. D. Wall*, for San Jose Traffic Bureau.

*Faber L. Johnston*, for San Jose Lumber Company and other interests in East San Jose.

*Mrs. Edward L. Wilcox*, for Outdoor Art League.

*Mrs. Thomas Reed*, for Civic League.

*Miss Clara Smith*, for Collegiate Alumnae.

THELEN and GORDON, *Commissioners*.

#### OPINION.

The complaint of the city of San Jose alleges, in effect, that Southern Pacific Company, hereinafter at times referred to as the Southern Pacific, and The Western Pacific Railroad Company, hereinafter at times referred to as the Western Pacific, are railroad corporations operating railroads within the state of California; that if the Southern Pacific and the Western Pacific construct their railroads as proposed, there will be two main line railroads operating to and through the westerly portion of the city, each operating and maintaining separate railroads with all necessary appendages and adjuncts, including freight yards and freight and passenger stations; that the effect of such construction and operation will be to surround the principal portions of San Jose with railroad tracks and to make difficult and dangerous interconnection between the city of San Jose and the surrounding territory; that such construction will tend to scatter industrial plants and manufacturing establishments, prevent the normal growth of the city in every direction and unnecessarily depreciate property values; that the convenience and safety of the general public will be best served by a concentration of the railroad tracks entering and passing through the city, by the operation of such railroads over a single set of tracks or over adjacent tracks so as to eliminate a large number of the existing and proposed grade crossings; that for the Western Pacific to best serve the community, it should be located nearer to the industrial centers or have access to them over existing tracks; and that in order to relieve the people of San Jose and vicinity and the general public from the dangers, damage and inconvenience complained of it will be necessary to concentrate the various existing and proposed tracks of the defendants, and to relocate some or all of them, to locate and provide for the joint use of said two railroads of tracks, freight depots, and a union passenger station and for adequate protection of all crossings. The city of San Jose asks the Railroad Commission to make its order granting the following relief:

- (a) The installation of a union passenger station;
- (b) The installation of a union freight depot or depots;
- (c) The relocation, reorganization and joint use of the existing and the proposed railroad tracks;
- (d) The adequate protection of all crossings; and
- (e) Such other relief as in the judgment of the Railroad Commission may be necessary or expedient.

The answer of the Southern Pacific denies the material allegations of the complaint.

The answer of the Western Pacific denies the material allegations of the complaint and alleges that the construction of its line of railroad as contemplated to and through the city of San Jose will largely increase and improve the transportation facilities of the city of San Jose and the territory contiguous thereto, will facilitate the transportation of freight and passengers, will stimulate the development of industrial plants and manufacturing establishments and will encourage the normal and natural growth of the city of San Jose in every direction.

Public hearings in this proceeding were held in San Jose on December 21 and 22, 1917. Additional data called for by the presiding commissioners have been filed and this case is now ready for decision.

By stipulation of all the parties, the pleadings and testimony in the following two proceedings, in so far as relevant, will be considered as being in evidence in this proceeding:

1. Application No. 1966, being application of Southern Pacific Company for permission to construct, maintain and operate at grade 35 railroad crossings in the city of San Jose and the county of Santa Clara (Decision No. 3351, made on May 20, 1916, Vol. 10, Opinions and Orders of the Railroad Commission of California, p. 159).

2. Application No. 3139, being application of The Western Pacific Railroad Company for an order authorizing the construction at grade of railroad crossings in Alameda County, Santa Clara County and the city of San Jose (Decision No. 4744, made on October 11, 1917).

It was also stipulated that such documents as might be filed by the parties subsequent to the hearings herein should be considered as evidence in this proceeding. The following documents have been filed by the parties indicated, have been given exhibit numbers as specified, and will be considered as being in evidence in this proceeding:

Exhibit No. 5 of city of San Jose--Application of The Western Pacific Railroad Company for franchise, together with form of proposed ordinance, filed July 23, 1917.

Exhibit No. 1 of Southern Pacific Company--Application of Southern Pacific Company for franchise along new route, together with form of proposed ordinance, filed August 9, 1915.

Exhibit No. 3 of Southern Pacific Company--Estimate for new double track main line from near Polhemus street to a connection with the present main line at Monterey road; for a new passenger station and track system near The Alameda; for new freight yard between Santa Clara and College Park; and for new freight station at San Pedro street.

Exhibit No. 4 of The Western Pacific Railroad Company--Estimated cost of Niles-San Jose branch, together with letter dated January 10, 1918, from Mr. T. J. Wyche, chief engineer, giving details of estimates.

Exhibit No. 2 of The Western Pacific Railroad Company—Agreement to be entered into between The Western Pacific Railroad Company and The Utah Construction Company, providing for construction of The Western Pacific Railroad Company's Niles-San Jose branch.

Exhibit No. 3 of The Western Pacific Railroad Company—Correspondence between Mr. C. M. Levey, president of The Western Pacific Railroad Company, and Mr. William Sproule, president of Southern Pacific Company, with reference to possible joint use of portion of Southern Pacific's Niles-San Jose branch.

Exhibit No. 5 of The Western Pacific Railroad Company—Letter dated January 2, 1918, from Mr. Allen P. Matthew, attorney for The Western Pacific Railroad Company, enclosing auditor's statement to November 30, 1917, of expenditures by the Western Pacific on the Niles-San Jose branch.

Exhibit No. 6 of The Western Pacific Railroad Company—Letter from Mr. A. R. Baldwin, vice-president and general attorney of The Western Pacific Railroad Company, dated January 21, 1918, giving estimated net less which would be sustained by The Western Pacific Railroad Company if its proposed construction from the Monterey road to The Alameda were abandoned.

Exhibit No. 7 of The Western Pacific Railroad Company—Letter from Allan P. Matthew, attorney for The Western Pacific Railroad Company, dated January 23, 1918, enclosing copy of letter dated January 19, 1918, from Mr. William Sproule to Mr. C. M. Levey, refusing to negotiate for joint use by The Western Pacific Railroad Company of any portion of the Southern Pacific's Niles-San Jose branch.

The subject matter of this opinion will be discussed under the following heads:

1. Southern Pacific's facilities and plans.
2. Western Pacific's plans.
3. City of San Jose's plans.
4. Niles-San Jose situation.
5. Willow Glen situation.
6. Suggested plan for handling Western Pacific situation.

#### **1. Southern Pacific's Facilities and Plans.**

The Southern Pacific's main line, coast division, enters the city of San Jose from the northwest, near the end of Autumn street, runs thence eastward across a number of streets, including San Pedro street, North First street, North Second street and North Third street, thence turns southerly and runs along Fourth street longitudinally, crossing all east and west streets, through the heart of the city to Reed street, thence continuing south over private right of way to and beyond the Oak Hill Cemetery and a crossing of the state highway on the Monterey road at Schuetzen.

The Southern Pacific's line to Niles branches from the main line near its crossing with North Second street and runs thence in a northeasterly direction out of the city of San Jose to Niles.

The Southern Pacific's Santa Cruz branch leaves the main line near Polhemus street, north of the city, runs thence in a southerly direction to and along Senter street, enters the city limits at San Augustine street, thence curving to the west and running southerly parallel with the west boundary of the city and about 50 feet east of the city limits across the principal thoroughfare of San Jose, known at this point as The Alameda, thence south to Pine street and thence curving to the west and running out of the city limits and beyond to Santa Cruz.

The Southern Pacific's main passenger station in San Jose is located in the northwesterly portion of the city, opposite the end of Market street, west of First street. The Southern Pacific also has a passenger station on the Santa Cruz branch south of The Alameda.

The Southern Pacific's freight yards in San Jose are located in the general territory lying west of San Pedro street, east of the Santa Cruz branch and north of Bassett street, partly inside the city limits and partly outside the city limits.

The Southern Pacific's main line running longitudinally along Fourth street through the heart of the city was constructed under a fifty-year franchise, which expired on January 27, 1918.

About the year 1906, the city officials of San Jose indicated to the Southern Pacific that this franchise would not be renewed at its expiration and that it would be necessary for the Southern Pacific to obtain a different right of way, not running through the heart of the city.

The Southern Pacific thereupon commenced the purchase of right of way along a new location through the extreme westerly portion of the city from a point on the Santa Cruz branch near San Carlos street, thence curving to the east and continuing in a southeasterly direction until it joins the existing main line opposite the Oak Hill Cemetery and north of the Schuetzen Park crossing of the Monterey road. The purchase of this new right of way was completed in 1913. The price paid for right of way was testified as having been \$865,000.00, which sum, together with the commissions and interest to date was testified to amount at the present time to approximately \$980,000.00.

Mr. Thomas Ahearn, division superintendent of the Southern Pacific, testified that in connection with the proposed new location of the main line, the company also purchased at about the same time at a cost of approximately \$96,800.00, lands for a new freight terminal along the existing main line north of Newhall street, northwest of the city limits. He testified that when the freight terminal is moved to this new location, the existing freight yards will be devoted to industry purposes.

Mr. Ahearn also testified that it is the Southern Pacific's plan to abandon the present Market street passenger station and to construct a new passenger station on what is now the Santa Cruz branch, south of The Alameda.

The Southern Pacific filed as its Exhibit No. 3, a statement of the construction expenditure which it anticipates in connection with the proposed alterations in and about San Jose, summarized as follows:

New double track main line from near Polhemus street and connecting with present main line at Monterey road .....	\$620,070 00
New passenger station and track system near The Alameda .....	712,240 00
New freight yard between Santa Clara and College Park .....	427,350 00
New freight station at San Pedro street .....	110,000 00
Total .....	\$1,869,660 00

The foregoing estimates are based on present war prices. They include no land. The estimate for the new proposed passenger station south of The Alameda is \$120,000.00.

Having acquired all the right of way along the proposed new location for the main line in the westerly portion of San Jose, the Southern Pacific, on August 9, 1915, filed with the city of San Jose its application for a franchise along the proposed new route. No action has as yet been taken by the city of San Jose on this application.

On November 19, 1915, the Southern Pacific filed with the Railroad Commission its application (Application No. 1966) for authority to construct, maintain and operate at grade, 35 railroad crossings in the city of San Jose and the county of Santa Clara, along the line of the new location of its main line. The Railroad Commission granted the application in part, withholding permission for the crossing of several streets which, in its judgment, should be closed, and ordering a separation of grades on West Santa Clara street, commonly known as The Alameda. The order was made on April 20, 1916 (Vol. 10, Opinions and Orders of the Railroad Commission of California, p. 159). An application of the city of San Jose for rehearing, based on that portion of the order which required that the city of San Jose should pay 35 per cent of the cost of separating the grades at The Alameda, was denied on June 14, 1916 (Vol. 10, Opinions and Orders of the Railroad Commission of California, p. 433). The city of San Jose thereafter secured from the State Supreme Court a writ of certiorari. On June 4, 1917, the Supreme Court rendered its decision dismissing the writ and upholding the order of the Railroad Commission (Vol. 53, Cal. Dec., p. 727).

Considerable uncertainty has heretofore existed as to the attitude which would finally be taken both by the city of San Jose and the Southern Pacific with reference to the continued operation of the Southern Pacific along Fourth street. At the hearing herein, the presiding commissioners requested both the city of San Jose and the Southern Pacific to make definite statements of their respective attitudes on this subject.



Mr. Thomas H. Reed, city manager of San Jose, testified that the city council is prepared to grant a franchise to the Southern Pacific over its proposed new route and that it does not desire that the Southern Pacific shall operate along Fourth street any longer than is absolutely necessary until its line can be constructed along the new location. Mr. Thomas Ahearn, division superintendent of the Southern Pacific, testified that the properties hereinbefore referred to have been purchased by his company in the expectation of locating its main line along the proposed new route in the western portion of San Jose and that the company proposes to abandon its operation along Fourth street as soon as possible. He further testified that he has instructions from his company to accept a franchise along the new route, provided that its terms are just and reasonable.

Thus, for the first time, it definitely appears that both the city of San Jose and the Southern Pacific Company clearly agree that the operations of the Southern Pacific along Fourth street shall not be continued longer than necessary and that the main line shall be located on the new route in the westerly portion of the city. No objection to this new location appears in this record and we may regard it as a settled fact that the main line of the Southern Pacific will be constructed along the proposed new route.

Mr. Ahearn testified that the Southern Pacific now has on hand sufficient ties for the new construction but that there may be some difficulty in securing the necessary rails. Whether the construction along the new route will proceed during the war is a matter which we assume will be determined by the Director General of Railroads.

## 2. Western Pacific's Plans.

The articles of incorporation of Western Pacific Railway Company, the predecessor of The Western Pacific Railroad Company, filed in the office of the Secretary of State on March 6, 1903, provided, in addition to the main line, for a number of branch lines, including an intermediate branch line from a point at or near the town of Hayward, to and through the city of San Jose. It was always recognized that without branch lines tapping the producing sections along its route, the Western Pacific Railway Company's project could not be a financial success. By reason of financial difficulties, however, the branch line to San Jose was not constructed.

Upon the reorganization of Western Pacific Railway Company, after its inability to pay the interest on its bonded indebtedness, its successor, The Western Pacific Railroad Company, one of the defendants herein, likewise provided in its articles of incorporation for the construction of a branch line of railroad to San Jose. Upon the reorganization, provision was made that the new corporation should sell its 5 per cent

gold bonds of the face value of twenty million dollars, the proceeds thereof to be principally used in the purchase or construction of extensions and feeders (Decision No. 3453, made on June 22, 1916, in Application No. 2351, Vol. 10, Opinions and Orders of the Railroad Commission of California, p. 438). The testimony herein shows that for a number of years the commercial interests of San Jose have been negotiating with the Western Pacific and its predecessor to the end that a branch line might be built from Niles to San Jose. The record shows that every effort was made by the chamber of commerce and other commercial interests of San Jose to induce the Western Pacific to construct this branch line. After the reorganization, the Western Pacific, having now available the necessary funds for the construction of this line, agreed to construct the same. A route was surveyed from Niles, closely paralleling the Southern Pacific's Niles-San Jose branch to a point near the northeasterly city limits, thence around the city on the east, entering the city limits at a point near McKee and Twenty-eighth streets, thence southerly through a portion of the city east of Coyote River, thence leaving the city limits at Lendrum avenue, again crossing a small corner of the city between Twenty-fourth street and William street, thence traversing unincorporated territory in a southeasterly direction across the Coyote River to and through the southeasterly corner of the city of San Jose, and thence south, leaving the city limits through what is known as the Phelan Tract and across the Southern Pacific's main line south of the city to the Monterey road. Crossing the Monterey road, the line as surveyed crosses the Southern Pacific's newly located line hereinbefore referred to, between Pomona avenue and Almaden road, and thence runs northwesterly, northerly and northeasterly across Almaden road and Guadalupe River, thence through a high-class residence section known as Willow Glen, across Minnesota avenue, Bird avenue, Willow street, Broadway avenue, Coe avenue and Los Gatos Creek, thence across a number of other streets and the Southern Pacific's Santa Cruz branch into the main industrial section west of San Jose, and thence across a number of important streets, including San Carlos street, Park avenue and San Fernando street to a point on the south line of The Alameda, in the block bounded by The Alameda, Bush street, San Fernando street and Wilson avenue. As has been well said, the line of the Western Pacific as surveyed around San Jose may be compared to a fishhook, the point being on the southerly line of The Alameda west of the city, and the shank being east and northeast of the city. The line as surveyed from the Monterey road south of the city limits, to the southerly line of The Alameda, closely parallels the city limits to the south and west, but at no point enters the limits of the city.

Mr. T. J. Wyche, chief engineer of the Western Pacific, testified that the company has as yet acquired title to no right of way from Niles to

the northerly limits of the city of San Jose but that from the latter point to the Monterey road, south of the city, approximately 90 per cent of the necessary right of way has been acquired and that from the Monterey road to The Alameda, approximately 80 per cent of the necessary right of way has been purchased.

Exhibit No. 1 of the Western Pacific shows an estimated cost of \$1,302,719.00 for the Western Pacific's Niles-San Jose branch, estimated as follows:

Niles to McKee road (northeasterly city limits of San Jose), main line 16.58 miles, sidings 1.71 miles .....	\$160,100 00
McKee road to Southern Pacific's main line south of city limits, main line 3.032 miles, sidings 3.68 miles .....	379,766 00
Southern Pacific main line south of San Jose through Willow Glen across Los Gatos Creek to Southern Pacific's Santa Cruz branch, main line 2.65 miles, sidings .81 miles .....	243,662 00
Southern Pacific's Santa Cruz line to The Alameda, main line .825 miles, and sidings 1.72 miles .....	219,191 00
Total .....	\$1,302,719 00

Western Pacific's Exhibit No. 5 shows that the expenditures incurred by the Western Pacific on this line to November 30, 1917, were \$367,208.82, as follows:

	Total expended	Expenditures north of north boundary of San Jose	Expenditures south of north boundary of San Jose
<i>Road.</i>			
1. Engineering .....	\$10,153 60	\$7,127 82	\$3,025 78
2. Land for transportation purposes .....	346,561 27		346,561 27
3. Grading .....	932 66		932 66
6. Bridges, trestles and culverts .....	10 13		10 13
8. Ties .....	1,477 61		1,477 61
9. Rails .....	4,759 92		4,759 92
10. Other track material .....	595 30		595 30
11. Ballast .....	133 86		133 86
12. Tracklaying and surfacing .....	1,585 47		1,585 47
15. Crossings and signs .....	487 37		487 37
<i>General Expenditures.</i>			
71. Organization expense .....	2 33	1 64	69
73. Law .....	509 30	357 52	151 78
Totals .....	\$367,208 82	\$7,486 98	\$359,721 84

The main expenditure, as will be noted from the foregoing table has been the sum of \$346,561.27 for land from a point opposite the north boundary of San Jose along the proposed route east, south and west of the city.

Exhibit No. 6 of the Western Pacific shows that if the proposed line from the Monterey road to The Alameda is abandoned, the Western Pacific would sustain an estimated lost of \$99,704.75 in its property investment, and of \$9,938.74 in its engineering investment.

The Western Pacific proposes to construct its passenger station in East San Jose on the northerly line of Santa Clara avenue, between Twenty-seventh and Twenty-eighth streets.

The company proposes to construct its principal freight terminal on the block bounded by The Alameda, Bush street, San Fernando street and Wilson avenue, in the industrial section west of San Jose, as well as a freight house back of its passenger station in East San Jose, and team tracks on the Phelan Tract, south of San Jose, together with a team track north along Fifth street to Virginia street.

On July 23, 1917, the Western Pacific filed written application with the city of San Jose for a franchise crossing the streets along its surveyed route in the easterly and southeasterly portion of San Jose. On August 20, 1917, the city of San Jose granted to the Western Pacific Company a fifty-year franchise from and after August 16, 1917, along the route requested by the Western Pacific Company.

Thereafter, on August 22, 1917, the Western Pacific filed its application with the Railroad Commission asking authority to construct its crossings at grade along its route in the city of San Jose, as well as along its surveyed route in the county of Alameda and the county of Santa Clara. Reference has hereinbefore been made to the Railroad Commission's Decision No. 4744, made on October 11, 1917, granting the application, with provision for the necessary protection of the grade crossings authorized.

### 3. City of San Jose's Plan.

At the hearing in Application No. 3139, the city of San Jose appeared through its city manager and city attorney and protested against the granting of the application in so far as it affected the proposed line south and west from the city of San Jose from the Monterey road to The Alameda. Particular objection was made against the construction of the line and the crossing of the streets in the residence district known as Willow Glen.

The Railroad Commission having ruled that in an application under section 43 of the Public Utilities Act, the commission was authorized to consider only the safety at the proposed crossings and not any question of public convenience and necessity, the city filed the complaint in this proceeding, raising all the issues hereinbefore indicated.

The city, at the hearing herein, presents a definite plan embodied in its Exhibit No. 7, being a report on joint steam railroad terminals for the city of San Jose, prepared by Mr. F. A. Nikirk, assistant city engineer. The recommendations contained in this report are as follows:

1. A joint freight terminal should be built at or about the present Southern Pacific freight station, west of San Pedro street.
2. A joint passenger terminal should be built at a point at or near the present west side passenger station.

3. The railway lines entering and leaving said terminals should be used in common by all steam railroads within the city.

Mr. G. M. Fontaine, a member of the city planning commission of San Jose, presented as his personal suggestion a modification of the city's plan, contemplating that the Southern Pacific's main line from the straight track west of Second street should be constructed on a tangent through the tier of blocks between Washington street and Julian street, to a point near Coyote Creek, where, with a curve to the south, the line would connect at or near Alum Rock avenue with the located line of the Western Pacific east of San Jose. The latter line was suggested as a joint line for both railroads. Without going further into this plan, and while it would probably have the advantage of avoiding more grade crossings than any other plan thus far suggested, it has the exceedingly grave disadvantage of providing for a mileage of approximately two and one-half miles more from the connection of the main line of the Southern Pacific Company with the Santa Cruz line than the new location in the westerly portion of San Jose proposed by the Southern Pacific and now approved by the city. For this reason alone, the plan would seem to be impracticable.

Referring first to the matter of a union passenger station, the testimony shows that the points reached by the Western Pacific are almost all also reached by the Southern Pacific and that there is no reasonable expectation that any substantial number of passengers will desire to transfer in the city of San Jose from one of these two railroads to the other. Although the city of San Jose would like to have a union passenger station, it does not insist thereon. The testimony shows clearly that a union passenger station is not particularly needed in San Jose, although, if it could be secured as an incident to other matters, there would certainly be no objection to it.

Referring next to union freight terminals, there is no evidence herein to show that on the facts existing in San Jose such terminals would be desirable. In fact, it appears that in San Jose, the construction of several small freight depots in various parts of the city would be just as convenient to the shippers as if there were a joint freight depot. Such construction would avoid serious operating difficulties which would be encountered in connection with a joint freight terminal and would also give to the Western Pacific a better opportunity to develop business. While it would be possible for each railroad to operate alternately a joint freight terminal or to form a terminal company for this purpose, either alternative is impracticable as applied to the existing conditions in San Jose.

The testimony shows that although the city of San Jose would be pleased to have a union passenger station and union freight terminals, its real purpose in filing the present complaint is to avoid the large

number of grade crossings which will result from construction along the Western Pacific's survey and particularly to avoid the grade crossings and the proposed construction of the Western Pacific's line through the Willow Glen district. If the Southern Pacific's line is constructed along the new route and if the Western Pacific constructs its line as proposed, a large number of grade crossings not now in existence will be created by the Southern Pacific in the southwesterly portion of the city and by the Western Pacific in the Willow Glen district, and two lines of railroad will girdle the city at this point.

The testimony shows that the officials of the city have no objection to the construction of the Western Pacific's line through and around the easterly section of the city to the Monterey road south of the city. Although quite a number of grade crossings will necessarily result from this construction, the parties are apparently satisfied with the provision for the protection of these crossings made by the Railroad Commission in its said Decision No. 4744 and there is a possibility that this line may develop considerable business in this territory. The record shows no substantial reason why this part of the Western Pacific's line should not be constructed if its project is carried forward.

This construction would leave for solution the Willow Glen problem.

#### 4. Niles-San Jose Situation.

For eleven miles, from Niles to Milpitas, the surveyed line of the Western Pacific runs within a stone's throw of the existing Niles-San Jose line of the Southern Pacific. From Milpitas south to the northerly limits of San Jose, a distance of approximately nine miles, the lines are nowhere more than two and one-half miles apart.

Mr. Thomas Ahearn testified that twice the present business could easily be handled over the Southern Pacific's Niles-San Jose line.

Western Pacific's Exhibit No. 1 shows that the estimated cost of the Western Pacific's proposed line from Niles to the north city limits of San Jose will be \$460,100.00.

In the light of these facts, there is no reasonable excuse for the duplication of the present railroad facilities from Niles to San Jose. The existing line of the Southern Pacific is ample to take care of the traffic of both the Southern Pacific and the Western Pacific for many years to come. If any new construction is necessary, the money should be expended in double tracking and block signalling the present Southern Pacific line. If this were done, the Western Pacific could get into San Jose without duplicating the present investment of the Southern Pacific Company, additional grade crossings would be avoided, the Southern Pacific would secure interest on a portion of its investment in the existing line and both the Southern Pacific and the Western Pacific would be better off financially.

The testimony shows that on August 10, 1917, Mr. C. M. Levey, president of the Western Pacific, wrote to the Southern Pacific, suggesting a joint use of the Southern Pacific's line from Niles to Milpitas, a distance of approximately eleven miles. Mr. Levey intended to have the line of the Western Pacific diverge from this point to the southeast, the line, however, at no point to be more than one and one-half miles distant from the Southern Pacific's line.

After a period of negotiation, Mr. William Sproule, president of the Southern Pacific, replied, on November 20, 1917, as follows:

"After considering, conclusion has been reached that for this piece of track it would not be a convenient arrangement to have it occupied and operated by two companies. I wish to thank you, however, for giving us the opportunity of considering it, and will take early occasion to talk with you about it."

The advantage to both railroads of joint operation of at least a part if not all of the Southern Pacific's Niles-San Jose line being obvious, the presiding commissioners at the hearing asked Mr. Levey whether he were still willing to negotiate to this end. Mr. Levey having testified in the affirmative, counsel for the Southern Pacific was asked, in view of the present situation and also of the altering attitude of the public toward needless and useless expenditures in duplicating existing railroad properties, if he would not take up the matter again with the president of the Southern Pacific Company. The matter was again taken up with Mr. Sproule, whereupon, on January 19, 1918, he gave his answer as follows:

"Having gone further into this subject, have again come to the conclusion previously reached that it is advisable for us to retain our facilities for the further development of the company."

Joint operating agreements between rival railroads are quite common in California as well as in other sections of the country. The Southern Pacific and the Santa Fe have an agreement for joint operation over the Tehachapi grade.

Likewise, the Santa Fe and the Salt Lake have an arrangement for joint operation between Daggett at a point near the city of Riverside, a distance of about 100 miles. The station employees are joint, an arrangement satisfactory to both parties having been made with reference to the payment of maintenance and operating expenses, depreciation and a fair return on the investment.

No logical reason exists why a similar arrangement should not be made between the Southern Pacific and the Western Pacific covering the Niles-San Jose branch or at least that portion thereof which lies between Niles and Milpitas.

The attitude of the Southern Pacific in refusing to negotiate on this subject with the Western Pacific does not commend itself to us. This

attitude is contrary to the growing realization that our nation must put an end to further wasteful duplication of railroad construction. If the government owned the railroads of the country as it is now operating them, we may be sure that no such construction would be permitted. More and more, our people will judge the acts of our railroads, particularly in the matters of duplicate construction and duplicate operation, by what the government would do if it both owned and operated the property.

We assume that the question whether the Western Pacific shall get into San Jose will be passed upon by the Director General of Railroads. If he decides that the proposed construction is not justified, particularly at present, there will be no need for considering further the matter now under consideration. On the other hand, if he decides that the Western Pacific may enter San Jose, we hope that he will take steps to have this done in such a manner as to prevent the wasteful duplication now contemplated in connection with the Niles-San Jose situation.

#### 5. Willow Glen Situation.

Reference has already been made to the fact that the proposed line of the Western Pacific southwest of the city of San Jose is projected through the high-class residential district known as the Willow Glen district. There are no industries in this district and the testimony shows that the Western Pacific does not expect to secure any business here. The line through this district is merely a bridge between the Monterey road and the industrial section located west of the city and between Los Gatos Creek and The Alameda.

It is our judgment that if there is any reasonable way in which the Western Pacific can reach the industrial district south of The Alameda without traversing the Willow Glen district, the proposed construction of the Western Pacific through this district should not be consummated.

On the other hand, we realize that unless the Western Pacific can reach the industrial section south of The Alameda and west of the city, its construction to San Jose would not be justified.

We are thus confronted with the problem of enabling the Western Pacific to reach the district south of The Alameda and west of the city without traversing the Willow Glen district. This is the problem which the city of San Jose really had in mind when it filed the complaint herein and is the one problem which, in addition to the Niles San Jose situation, requires a constructive solution.

#### 6. Suggested Plan for Handling Western Pacific Situation.

We shall now make our suggestion as to how we believe the Western Pacific's problem can be handled in a manner just to all parties concerned. While we realize that the Railroad Commission does not have



jurisdiction to make an order compelling the complete execution of this plan, we nevertheless are of the opinion that it is the duty of public authorities to be constructive in suggestion, even though they can not legally compel obedience to an order made in conformity to such suggestion.

The ideal solution of the problem, in our judgment, would be running rights for the Western Pacific on the Southern Pacific's line from Niles to San Jose and as far through the city, along both the proposed main line and the Santa Cruz branch as it may be necessary for the Western Pacific to go to reach the existing industries on the west side and the terminal properties which it has already acquired in that vicinity. There is no reason why the Western Pacific could not build its necessary industry tracks and spur tracks from the line of the Southern Pacific as well as from a line owned by itself. In this way, the industrial section between The Alameda and Los Gatos Creek could be satisfactorily reached by the Western Pacific without traversing the Willow Glen district.

If the Western Pacific desires to construct its east side line, this could be done from a point on the Southern Pacific's line near the northeasterly limits of the city and to and thence along the Western Pacific's surveyed route to the Monterey road.

The Western Pacific's passenger station could be located, as planned, on Santa Clara street between Twenty-seventh and Twenty-eighth streets in case the company did not desire to arrange for passenger facilities on the west side of the city.

The Western Pacific's freight yards could be located at some point near the northerly limits of the city, where cars from both the east and the west side would be assembled into trains and trains coming in with cars for both sides of the city could be split up.

The plan just suggested would result in the saving of several hundred thousand dollars in construction cost to the Western Pacific, would yield to the Southern Pacific a substantial revenue as rental of its line, would permit the Western Pacific to make its desired industrial developments and would make unnecessary the proposed construction through the Willow Glen district and the additional grade crossings connected therewith.

The foregoing plan is suggested on the assumption that the federal authorities will permit the proposed entry by the Western Pacific into San Jose. The facts have been quite fully set forth herein. The policy is for the government to determine.

While, as hereinbefore indicated, the Railroad Commission is without jurisdiction to compel the performance of vital portions of the plan herein suggested, without which the plan itself can not be executed, we are still hopeful that the parties to this proceeding, animated by a desire

to avoid useless expenditures, will agree on the plan herein suggested or some similar plan which will accomplish the same purposes.

For the reasons hereinbefore indicated it will be necessary to dismiss this complaint.

We submit herewith the following form of order:

### ORDER.

Public hearings having been held in the above-entitled proceeding, the proceeding having been submitted and being now ready for decision, and the Railroad Commission finding that the installation of a union passenger station in the city of San Jose is not necessary, that the installation of a union freight depot or depots is not advisable, that the protection ordered by the Railroad Commission at the grade crossings in connection with the applications of the Southern Pacific Company and The Western Pacific Railroad Company heretofore passed upon has not been questioned, and that the Railroad Commission is without jurisdiction to compel the enforcement, in its entirety, of the solution of the San Jose railroad problem suggested by the commission in the opinion which precedes this order,

*It is hereby ordered* that the complaint in the above-entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fourth day of February, 1918.

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### DECISION No. 5100.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PREFERRED STOCK OF THE PAR VALUE OF ONE HUNDRED SEVENTY-EIGHT THOUSAND DOLLARS.

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Application No. 3374.

*Decided February 4, 1918.*

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Applicant granted permission to issue \$178,000.00 par value of preferred stock, to be sold at not less than par, provided a 10 per cent commission may be paid for the sale thereof; the proceeds to be used to pay off current indebtedness as hereafter authorized by the commission.

*Chickering & Gregory and Samuel Kahn, by Samuel Kahn, for Applicant.*

LOVELAND, *Commissioner*.**OPINION.**

Western States Gas and Electric Company asks authority to issue \$178,000.00 par value of 7 per cent preferred stock. Applicant intends to sell the stock for not less than par, but asks permission to pay, if necessary, a 10 per cent commission to sell the stock. In its amended application, applicant asks permission to use the proceeds from the sale of stock to pay in part for improvements installed prior to October 31, 1917, to which reference will be made hereafter.

On October 31, 1917, Western States Gas and Electric Company reported assets and liabilities as follows:

<i>Assets.</i>	
Plant and Franchises .....	\$7,884,365 69
Construction account .....	3,550,190 73
Sinking funds .....	2,061 34
American River electric bonds in sinking fund .....	149,000 00
Bonds in treasury .....	7,000 00
Stock in other companies .....	6,665 00
Current assets:	
Cash .....	\$44,415 56
Special deposits .....	300 00
Notes receivable .....	887 81
Accounts receivable .....	181,234 41
Materials and supplies .....	159,368 12
Motors leased .....	1,172 30
Signs leased .....	9,819 73
Total current assets .....	397,197 93
Prepaid insurance .....	1,861 53
Discount on securities .....	\$427,809 81
Unamortized discount on securities and expense .....	280,352 07
Total discount .....	708,161 88
Depreciation and renewal funds .....	25,500 00
Suspense items .....	23,522 71
Total assets .....	\$12,756,126 81
<i>Liabilities.</i>	
Stock:	
Common .....	\$3,231,500 00
Preferred .....	2,125,000 00
.....	\$5,356,500 00
Funded debt:	
Western States Gas and Electric Company .....	\$1,472,500 00
American River Electric Company .....	480,000 00
Ten-year notes of Western States Gas and Electric Company .....	1,564,000 00
.....	6,516,500 00
Current liabilities:	
Notes payable .....	\$103,000 00
Accounts payable .....	101,771 47
Due Standard Gas and Electric Company .....	69,420 51
Consumers' deposits .....	15,158 75
Unclaimed checks .....	799 18
.....	290,149 91

Accruals not due:	
Bond interest .....	\$101,031 25
Coupon note interest .....	23,460 00
General interest (credit) .....	467 34
Interest on consumers' deposits .....	136 43
Taxes accrued .....	32,011 91
Preferred dividends .....	12,395 83
	<hr/>
	169,568 08
Reserve for bad debts .....	6,641 88
Depreciation reserve .....	264,852 02
Surplus .....	151,914 92
	<hr/>
Total liabilities .....	\$12,756,126 81

Applicant has reported its revenues and disbursements for the calendar years 1914, 1915 and 1916, and for the ten months ending October 31, 1917, as follows:

Item	Year ending Dec. 31, 1914	Year ending Dec. 31, 1915	Year ending Dec. 31, 1916	Ten months, ending Oct. 31, 1917
Operating revenues .....	\$1,117,867 21	\$1,182,927 00	\$1,239,337 68	\$1,139,314 90
Operating expenses .....	594,038 86	606,694 99	632,061 79	607,808 83
Net operating revenue.....	\$523,828 35	\$576,232 01	\$607,275 89	\$531,506 07
Nonoperating revenue .....		907 03		2,421 32
Gross corporate income.....	\$523,828 35	\$577,139 04	\$607,275 89	\$533,927 39
Deductions--				
Bond interest .....	\$238,303 74	\$276,877 90	\$285,239 09	\$251,087 62
Other interest .....	37,296 37	3,862 46	7,013 55	17,622 38
Miscellaneous .....	3,925 70	11,308 25	18,003 73	19,821 02
Totals .....	\$279,525 81	\$292,048 61	\$310,256 37	\$288,531 02
Net corporate income.....	\$244,302 54	\$285,090 43	\$297,019 52	\$245,396 37
Surplus beginning of year...	106,473 56	127,309 10	144,739 89	139,605 40
Miscellaneous additions .....				\$1,462 08
Dividends on preferred stock .....	\$148,750 00	\$148,750 00	\$148,750 00	123,875 00
Dividends on common stock .....		30,295 30	74,728 41	60,673 93
Depreciation .....	60,000 00	60,000 00	60,000 00	50,000 00
Other deductions .....	14,717 00	28,614 34	18,675 60	
Surplus end of year.....	\$127,309 10	\$144,739 89	\$139,605 40	\$151,914 92

In its amended application, Western States Gas and Electric Company reports that for the eleven months ending October 31, 1917, it has expended for improvements to its system and the purchase of properties, the sum of \$816,097.36. These expenditures have been incurred for the following purposes:

Purchase of water and ditch system of Placerville Gold Mining Co. ....	\$215,005 31
Electric production system .....	132,677 46
Electric transmission system .....	113,105 84
Electric distribution system .....	207,797 73
Gas production system .....	43,375 52
Gas distribution system .....	90,570 13
General purposes .....	13,565 37

The commission by Decision No. 4183, dated March 16, 1917, as amended (Vol. 12, Opinions and Orders of the Railroad Commission of California, p. 681), authorized applicant to issue \$1,564,000.00 of ten-year 7 per cent notes. Of the proceeds the company was authorized to use \$215,000.00 to finance the purchase of the water and ditch system of Placerville Gold Mining Company, and \$312,474.86 to pay for improvements. Deducting the two amounts from the construction expenditures for the eleven months ending October 31, 1917, leaves a balance of \$288,622.50, against which no stock or bonds have been issued.

In Exhibit No. 1, attached to the original petition herein, applicant reports notes payable, as of October 31, 1917, as follows:

Payee	Rate per cent	Maturity	Amount
Stockton Savings and Loan Society Bank..	6	Nov. 18, 1917	\$25,000 00
Anglo and London-Paris Nat. Bank, S. F....	6	Dec. 18, 1917	25,000 00
Anglo and London-Paris Nat. Bank, S. F....	6	Jan. 17, 1918	25,000 00
First National Bank, Stockton.....	6	Nov. 9, 1917	10,000 00
Bank of Eureka.....	6	Oct. 30, 1917	18,000 00
Total .....			\$103,000 00

In addition, applicant, as shown in its balance sheet of October 31, 1917, reports accounts payable \$101,771.47; due Standard Gas and Electric Company \$69,420.51.

Applicant reports, as said above, the installation of improvements costing \$288,622.50, against which the commission has not authorized the issue of stock, bond or notes. I recommend that applicant be granted authority to issue \$178,000.00 of its 7 per cent preferred stock to finance in part the cost of these improvements. Rather than use the proceeds or any part thereof to reimburse its treasury, I believe that applicant should apply the proceeds from the sale of the stock directly to the payment of current indebtedness.

Applicant has entered into no contract for the sale of the \$178,000.00 of preferred stock. No doubt some of the current indebtedness existing on October 31, 1917, has since been paid. Other indebtedness may have been incurred. Some of applicant's present current indebtedness may have to be paid before it can sell the stock. Under these circumstances, I believe that applicant's needs will be fully met if the order herein provides for the issue of the stock subject to the condition that the proceeds be used to pay such of applicant's current indebtedness as the Railroad Commission may authorize by a supplemental order or orders herein.

I herewith submit the following form of order:

**ORDER.**

Western States Gas and Electric Company having applied to the Railroad Commission for authority to issue \$178,000.00 of its 7 per cent preferred capital stock, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

*It is hereby ordered* that Western State Gas and Electric Company be and it is hereby granted authority to issue \$178,000.00 par value of its 7 per cent preferred capital stock, upon the following conditions:

(1) The stock shall be sold for not less than par; provided, that applicant may expend, if necessary, in connection with the sale of said stock, an amount equivalent to not more than 10 per cent of the par value of the stock sold.

(2) The proceeds from the sale of the stock shall be used to pay current indebtedness, as hereafter authorized by the Railroad Commission in a supplemental order or orders herein.

(3) Applicant shall keep a true and correct account showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued, and shall, on or before the twenty-fifth day of each month make a verified report to the Railroad Commission, all in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted shall apply only to such stock as shall be issued on or before December 31, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fourth day of February, 1918.

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DECISION No. 5102.

L. STEIN

VS.

EXCELSIOR WATER AND MINING COMPANY AND THOMAS MULCAHEY.

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Case No. 1108.

*Decided February 4, 1918.*

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It is in violation of the provisions of section 51 of the Public Utilities Act for a public utility water company to lease its system or any portion thereof without

first securing an order of the Railroad Commission permitting such action. An individual or company purporting to take over the operation of a utility or a portion thereof under an agreement not so authorized is merely acting as the agent of the utility, which is still responsible for the operation of its system. Defendant is found to have sufficient water in what is known as its Newtown ditch to deliver to complainant the amount of water he requires to irrigate certain specified acreage, which service it is required to render at its regular rates on file with the commission.

*James Snell*, for Complainant.

*C. F. Mettler*, for Excelsior Water and Mining Company.

*Thos. Muleahey*, in propria persona.

*Hennessey & Peterson* and *J. E. Craig*, as amicus curia.

BY THE COMMISSION.

#### OPINION.

Complainant herein is the owner of 120 acres of land situated in Nevada County, California. These lands are located at a distance of approximately one and one-half to two miles from the ditch of defendant corporation herein which is used to supply water for irrigation in the territory of which plaintiff's land is a part. Defendant Excelsior Water and Mining Company is a public utility owning and controlling a system of waterworks, consisting of lakes, reservoirs, flumes, canals and ditches, from which it supplies certain portions of the counties of Nevada and Yuba in this state.

Hereinafter the term "defendant" will refer to Excelsior Water and Mining Company unless otherwise specified.

Complainant has made application to defendant for service and prays for an order of this commission directing defendant to comply with said request and that this commission fix just and reasonable rates to be paid for that service.

Thomas Muleahey has been joined as defendant herein for reasons which will hereinafter appear. Defendant in its answer alleges that for a period of twenty-nine years last past, it has leased a portion of its ditch system which supplies territory herein involved, which ditch is known as the Newtown ditch, together with all water therein flowing, to Muleahey and his predecessors receiving therefor a certain annual rental. Defendant further alleges that it has no control over the water flowing in the said Newtown ditch and that an extension will be necessary to supply the territory herein involved.

Defendant herein, as has been hereinabove stated, is the owner of a system of irrigating ditches in Yuba and Nevada counties. The portion of that system which is involved in this proceeding is known as the Newtown ditch, which ditch extends from a certain mine known as Champion Mine in a meandering westerly direction to a point in the southeast quarter of section 7, township 16 north, range 8 east, or a distance of approximately six miles. At the Champion Mine defendant

delivers into this ditch a minimum of approximately 40 miner's inches to serve the lands contiguous and in the same general territory as the lands of complainant herein. In addition to the so-called Newtown ditch there are systems of private ditches extending northerly from points on the Newtown ditch a distance of from one to two miles and a half. The two main ditches now used for supplying that territory are the so-called Williams and Marshall ditch and the Williams new ditch.

The lands of complainant are located in the northeast quarter of section 6, township 16 north, range 8 east, and the southwest quarter of section 31, township 17 north, range 8 east, a distance of approximately two miles from the junction of those private ditches with the Newtown ditch.

At present to supply this territory defendant herein has entered into a certain agreement or lease with defendant Muleahey whereby the defendant leases to Muleahey the Newtown ditch together with the right to use all water passing the Champion Mine tank in said ditch, excepting and reserving to the lessor the right to use the ditch from its head to the Champion Mine tank and to supply the demand of the Champion Mine Company.

The rental of this water and ditch is the sum of \$200.00 per year and 42 days labor annually, said labor to be expended for the maintenance of the ditch. Muleahey, in turn, delivers water to various consumers along the ditch and to other consumers at the junction points of the Newtown ditch and the private ditches hereinabove referred to. The consumers served by Muleahey are ten in number and the lands irrigated aggregate approximately 70 acres. The area under cultivation by the complainant herein and for which irrigation is sought is approximately three acres. The rates which the consumers have been paying Muleahey yield in the aggregate \$210.00 annually, ten dollars being retained by Muleahey for overseeing the ditch. Through a community arrangement, the 42 days labor required to be performed is prorated among the consumers in accordance with the water used. According to the arrangement between Muleahey and the defendant company and from the facts hereinabove set forth, it will be seen that Muleahey in so far as his relation to the community or territory served by defendant is concerned is merely an agent for that community. As to his relations with the defendant company a different situation exists.

Under the terms of the lease hereinabove referred to between himself and the defendant, the defendant company, a public utility, has undertaken to lease a portion of its property. Under the terms of section 51 of the Public Utilities Act the consent of this commission is necessary in order to perfect a valid lease of utility property. The testimony in this proceeding shows that no such permission has ever been sought by the utility. Therefore, the lease undertaken to have



been entered into between the defendant and Muleahey is void. This being so, the Defendant Excelsior Water and Mining Company is responsible for the operation of that property. The activities of Muleahey have, therefore, been nothing more than that of an agent of defendant, as well as agent for the consumers. It must be held, therefore, that the allegations of defendant's answer that the Newtown ditch and the waters flowing therein are not under its control are in legal effect controverted. The evidence clearly shows that since the Public Utilities Act became effective the lessees of the Newtown ditch which as hereinabove set forth, were only the agencies of the defendant having supplied water to the lands now owned by the complainant herein.

Complainant stated that he did not expect delivery to his lands by the defendant herein, but only desired the right to take from the Newtown ditch water sufficient to irrigate that portion of his premises heretofore irrigated by such waters. Owing to the distance of complainant's property and the mountainous character of the land lying between his property and the Newtown ditch, the commission could not order an extension of the defendant's facilities to the property of complainant at the expense of the utility. However, since defendant is serving the general territory in which complainant's lands are situated and since it has heretofore served these lands now owned by complainant, we believe that upon the demand of complainant for delivery at a point to be designated by him along the Newtown ditch of sufficient water to irrigate the lands belonging to him, as hereinabove set forth, that defendant should be required to render service to him and at the rates on file with the Railroad Commission for similar service by defendant herein to its other consumers.

While the question of rates is somewhat outside the issue raised by the pleadings in this case the facts at the hearing indicate that under the existing arrangement a discrimination favoring the users of the Newtown ditch had been brought about. The rate that defendant corporation is now charging is ten cents per miner's inch for every 24 hours. From the testimony before the commission it appears that at least 40 inches as an average have been delivered into this ditch for a period annually of 120 days or 4,800 inch-days per season, which at the established rate would produce a revenue of \$480.00.

The payment made by the agent or lessee, Muleahey, is \$200.00 per annum and giving a value of approximately \$3.00 per day to the 42 day's work supplied, would result in making a total cost to the water users of \$320.00 for water which under the schedule filed should produce an income of \$480.00. We believe that there is sufficient latitude between these two figures to provide for adequate maintenance of the ditch and such other sums as may be occasioned by increased operation expenses.

**ORDER.**

Complaint having been made by L. Stein against Excelsior Water and Mining Company, a corporation, and Thomas Mulcahey, a public hearing having been held and the commission being fully apprised in the premises,

*It is hereby ordered* that defendant Excelsior Water and Mining Company be and it is hereby ordered to serve water to L. Stein for irrigation on the following described property, to wit:

"All those lots, pieces, or parcels of land situate, lying and being in the county of Nevada, state of California, and bounded and particularly described as follows, to wit:

"The east  $\frac{1}{2}$  of the northeast  $\frac{1}{4}$  of section 6, township 16 N., R. 8 east, M. D. B. and M., and the southwest  $\frac{1}{4}$  of the southeast  $\frac{1}{4}$  of section 31, township 17 N., R. 8 east, M. D. B. and M.,"

at the rates and under the rules of said Excelsior Water and Mining Company on file with the Railroad Commission of the state of California; said water to be used on said premises hereinabove described and measured and delivered by defendant Excelsior Water and Mining Company to said L. Stein at the point on the so-called Newtown ditch to be designated by the said Stein.

*It is hereby further ordered* that the complaint in so far as it is directed to Thomas Mulcahey be and the same is hereby dismissed.

Dated at San Francisco, California, this fourth day of February, 1918.

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DECISION No. 5103.

STEVINSON WATER USERS' ASSOCIATION, JOHN D. CARLSON AND  
J. E. MOUNT

*vs.*

JAMES J. STEVINSON AND THE EAST SIDE CANAL AND IRRIGATION  
COMPANY.

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Case No. 855.

*Decided February 4, 1918.*

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The Railroad Commission heretofore directed defendant company to clean its main canal of all sand, weeds and tule within a period of sixty days, which order was not complied with, the company contending that to keep such canal clean would necessitate dredging some nine miles of river bed to prevent the canal from refilling with sand within a few days.

Additional testimony tending to show that the canal can be cleaned and kept so, defendant directed to clean its main canal from intake on San Joaquin River to Sand Slough waste gate and to keep it hereafter free of all foreign materials; also to report to the commission within fifteen days the means adopted to comply with such order and at fifteen-day intervals, the progress of such work which shall be completed within a period of ninety days.

*L. L. Donnell*, for Complainants.

*James F. Peck*, for Defendants.

BY THE COMMISSION.

**OPINION.**

The commission on March 31, 1917, made its order in this proceeding requiring The East Side Canal and Irrigation Company, a corporation, hereinafter referred to as defendant, to make certain improvements in its irrigation system. These improvements in the language of the order were to be as follows:

*"It is hereby further ordered that The East Side Canal and Irrigation Company be and the same is hereby directed to remove, within sixty (60) days from the date of this order, all sand and other material obstructing the company's main canal between the intake at the San Joaquin River and the slough known as Sand Slough.*

*"It is hereby further ordered that The East Side Canal and Irrigation Company shall make to this commission every fifteen (15) days until the fulfillment of this order, verified reports in detail of the progress of the work herein ordered to be performed."*

Throughout the irrigation season of 1917, repeated complaints were informally received by the commission to the effect that service being rendered by defendants was inadequate due to their failure to obey that portion of the commission's order hereinabove set forth. Whereupon, the commission did on the seventh day of December, 1917, issue its order that a further hearing in this proceeding be had before Examiner Encell at Merced, California, on Friday, December 14, 1917, at which time and place The East Side Canal and Irrigation Company should appear and show cause if any it had why the order heretofore made in this proceeding on March 31, 1917, had not been fully carried out and why the Railroad Commission should not proceed to make such further order as to it may seem proper to the end that such order may be fully carried out and adequate service rendered by said company to its consumers.

A further hearing was held in this proceeding in accordance with said order to show cause. The position taken by defendant at this hearing was that the things required by the commission's order to be done had been done by the water flowing through the canal and discharging at a structure known as Sand Slough waste gates. One Cannon, an employee of defendant and witness in this proceeding, testified that in his opinion the water sluicing through the canal did actually remove the sand from the canal bed, but before the water receded, replaced it with an equal amount of sand. Counsel for defendant furthermore took the position that in order to effectively remove the cause of the choking up of their main canal with sand it would be necessary to dredge the bed of a portion of the San Joaquin River for a distance of approximately seven to nine miles above the head gate.

The opinion of the commission with respect to the contention of defendant in relation to this ditch was fully set forth in the original opinion herein. A portion of that opinion is as follows:

“The East Side company introduced evidence to the effect that its canal was large enough to carry several times as much water as the company could procure, and that, accordingly, it could carry all the water obtainable, even though it might be badly filled with weeds and tules. The evidence showed unmistakably, however, that the deposit of sand above referred to materially reduced the amount of water which flowed into the ditch from the river at the time of the year when most receded, and there is no question in our minds but that if the canal be cleared of this sand, and kept clear, the water users of Stevinson Colony would receive a more adequate supply. Under existing conditions, the evidence showed, there was often a shortage of water, especially during dry seasons.

“There was a distinct conflict of evidence as to whether the canal would fill again immediately if cleaned out by mechanical means, the East Side company's witnesses contending that it was impracticable to clear the same by mechanical means, and that if it were so cleared, it would fill up again to its present height within ten days or two weeks. Complainants' witnesses offered contrary evidence and Milo H. Brinkley, one of the commission's engineers, who had made an examination of the canal, testified that in his opinion it was entirely feasible to clean out the canal by means of a drag scraper, and that if the canal were so cleaned out, it would not fill up in a single season, and, accordingly, the water supply available for the East Side company's consumers would be materially improved.

“Considering all the evidence, we find that the East Side company's efforts to clean out the sand by running the flood waters through the canal two miles to Sand Slough are decidedly uncertain and inadequate and have not kept the canal clear in the past; and we are of the opinion that the East Side company's water users should not be required to depend upon such a questionable method of removing this obstruction, but that the East Side company should be required to remove the sand by means of a drag scraper or some other suitable mechanical process within sixty days from the date of this order. There is no means of determining with certainty whether or not sand will again fill up the canal as soon after being removed as to render its removal in the manner suggested impracticable, except by actually removing the sand and observing the results; and in view of the conflict of testimony and the fact that the East Side company's method of dealing with this problem has not been satisfactory or adequate, and as the cost of the removal of the sand, as above suggested, is by no means prohibitive, we feel that the following order will impose no undue burden upon the East Side company.”

No testimony of a different character than that referred to in the portion of the opinion hereinabove quoted was introduced at the further hearing. An examination of the original opinion in this case

makes it clear that the commission was not of the opinion that the sand could be sluiced out of the main canal, and the opinion furthermore makes it clear that in the opinion of the commission the canal should be kept clear of sand. The commission has not heretofore insisted upon the use of mechanical appliances for the reason that it realized the great difficulty with which equipment of any sort could be obtained during the preceding year. The use of teams in removing the same would require the water to be turned from the canal when it was needed for irrigation of crops. The testimony shows, however, that subsequent to about September 1 there has been no water flowing in the canal in any great amount, and that the sand could therefore during a period from September 1, to about March 1, be removed by teams without interfering with the use of the canal for the irrigation of land. It is the duty of the defendant to serve complainants herein with an adequate supply of water. In our opinion this can be done only by keeping defendant's main canal clear of sand, weeds and tules. It is the plain purpose of the order hereinafter set forth to require defendant to remove from its main canal and to keep clear therefrom all sand, weeds and tules. In view of the finding in the previous decision, that the removal of the sand from the canal bed will appreciably increase the water available for irrigation, and from the fact that it will thereby aid in a marked degree to the production of crops during the present national emergency, we believe that complainants herein and the defendant company should cooperate to make possible the irrigation of as extensive an area as possible. Any information which can be given by complainants to the company which will help the defendant to determine where teams, men and equipment can be had, should be given to the company.

#### ORDER.

*It is hereby ordered* that The East Side Canal and Irrigation Company proceed forthwith to remove the accumulations of sand and all foreign material which now obstruct or any wise lessen the capacity of said company's main canal between its intake on the San Joaquin River and that point on its main canal known as Sand Slough waste gate.

*It is hereby further ordered* that when The East Side Canal and Irrigation Company, a corporation, shall have removed the sand and other material from the company's main canal between its intake on the San Joaquin River and Sand Slough waste gates as hereinabove ordered, that the said East Side Canal and Irrigation Company shall keep said main canal clear at any and all times from sand and any other foreign material between the company's main canal at its intake on the San Joaquin River and the point on said main canal known as Sand Slough waste gate.

*It is hereby ordered* that The East Side Canal and Irrigation Company file a statement with this commission within fifteen days from the date of the order, setting forth therein the means which it intends to employ to carry out the above provision of the within order, and that The East Side Canal and Irrigation Company file with this commission its verified report at intervals not to exceed fifteen days from February 1, 1918, which reports shall set forth the work done by defendant in compliance with the within order, until all of said improvements hereinabove directed to be made shall be completed, the date of which completion shall not be more than ninety days from the date of this order.

Dated at San Francisco, California, this fourth day of February, 1918.

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Decision No. 5106.

IN THE MATTER OF THE APPLICATION OF UNITED STAGES FOR  
AUTHORITY TO ISSUE TWENTY THOUSAND DOLLARS OF STOCK  
FOR THE PURCHASE OF THE ASSETS OF THE MORGAN MOTOR  
COMPANY.

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Application No. 3314.

*Decided February 5, 1918.*

Subdivision (b) of section 52 of the Public Utilities Act prohibits the Railroad Commission from permitting a public utility subject to its jurisdiction to capitalize or issue securities based on the value of any franchise or permits which the utility holds in excess of the actual original cost thereof.

A new corporation which takes over the properties of an automobile transportation company which is not at the time operating under transferable permits in accordance with the provisions of chapter 213, laws of 1917, must obtain all such necessary permits from the local authorities of the district through which it intends to operate together with a certificate from the Railroad Commission.

Applicant authorized to issue \$11,000.00 par value of its capital stock in exchange for all properties of the Morgan Motor Company, provided that none of such stock shall be issued until all permits and a certificate have been obtained by applicant.

*T. Morgan*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing held before Examiner Encell on November 16, 1917, The United Stages, a corporation, asks authority to issue such an amount of its common capital stock as the Railroad Commission may consider a fair and reasonable price for the properties of the Morgan Motor Company. Applicant in its original application asked authority to issue \$20,000.00 par value of its common capital stock in payment for said properties.

Morgan Motor Company has forfeited its charter through its failure to pay the state license tax. Its properties and business are being taken care of by the board of directors in office at the time its charter was forfeited, acting as trustees as provided by law.

In a statement filed with the Railroad Commission on January 28, applicant reports the value of the assets of the Morgan Motor Company at \$40,215.00. Included in this sum is \$24,500.00 representing, what is termed the cost of its various franchises. The testimony shows that Morgan Motor Company paid nothing for its franchises and permits and that the \$24,500.00 in reality represents, according to Mr. T. Morgan, the cost of developing the business. Subdivision (b) of section 52 of the Public Utilities Act reads in part as follows:

"The commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever, or the right to own, operate or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or a political subdivision thereof, as a consideration for the grant of such franchise, permit or right."

The value of the properties of Morgan Motor Company exclusive of the alleged cost of developing its business is reported at \$15,715.00. The properties as reported by applicant include one 1918 seven-passenger Chalmers valued at \$1,750.00, one 1916 Dodge car, valued at \$750.00, three Dodge cars, new January 1, 1918, valued at \$3,015.00, depots at El Centro, Imperial, Camp Kearny, Campo and Calexico, valued at \$4,750.00, office fixtures and furniture at San Diego, Los Angeles and Santa Barbara, materials and supplies and about \$3,000.00 of working capital in the form of cash.

Morgan Motor Company began to operate auto stages in 1911. Originally the company owned its own cars and employed drivers to operate them. Because of the inability to secure competent and careful drivers the company found it to be more economical to lease the major portion of its equipment. A statement submitted by applicant shows that the revenues of the Morgan Motor Company for 1916 aggregated \$10,934.41, the expenses \$8,281.59, leaving a net revenue of \$2,652.82. For the nine months ending October 1, 1917, the gross revenues of the company are reported at \$32,059.66, the expenses, including the purchase of equipment at \$31,919.72, leaving a net revenue of \$139.94.

The Morgan Motor Company has been conducting its business under the fictitious name of The United Stages. Recently the stockholders of the Morgan Motor Company have caused to be organized The United Stages, having an authorized stock issue of \$100,000.00, divided into 1,000 shares of the par value of \$100.00 each. It is now proposed that this corporation acquire all of the properties and assets of the Morgan

Motor Company. We believe that in view of the facts submitted by applicant it may be authorized to issue \$11,000.00 of its common capital stock to acquire the properties of Morgan Motor Company.

As said, the Morgan Motor Company has been operating auto stages since 1911. If the property of this company is now transferred to The United Stages, a corporation, it will be necessary for The United Stages to obtain permits from the local authorities and an order from the Railroad Commission declaring that public convenience and necessity require it to conduct the stage line business formerly conducted by the Morgan Motor Company. The order herein will provide that applicant shall issue no stock until it has obtained all necessary permits and orders required by chapter 213, laws of 1917.

#### ORDER.

The United Stages having applied to the Railroad Commission for authority to issue \$20,000.00 of its common capital stock to acquire the properties of the Morgan Motor Company; and a public hearing having been held; and it appearing to the Railroad Commission that the money, property, or labor to be procured or paid for by the issue of stock herein authorized is reasonably required for the purpose or purposes specified in the order, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that The United Stages be and it is hereby authorized to issue and sell at not less than the par value thereof, \$11,000.00 of its common capital stock in payment for all of the properties and assets of Morgan Motor Company upon the following conditions and not otherwise:

1. The authority herein granted shall not become effective until The United Stages, a corporation, has obtained all necessary permits from public authorities and a certificate of public convenience and necessity from the Railroad Commission as provided for in chapter 213, laws of 1917.

2. The stock herein authorized to be issued in payment for the properties of Morgan Motor Company shall not be urged before the Railroad Commission or any other public body as representing the value of said properties for rate-fixing or any other purpose.

3. The United Stages shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds derived from the sale of said stock and on or before the twenty-fifth day of each month shall make a verified report to the Railroad Commission showing the sale and disposition of said stock, the terms and conditions of such sale and the disposition of the proceeds derived therefrom, all in accordance with this commission's General Order No. 24, which order in so far as applicable is made a part of this order.



4. The authority herein granted to issue and sell \$11,000.00 of stock shall apply only to such stock as may be issued and sold on or before August 31, 1918.

Dated at San Francisco, California, this fifth day of February, 1918.

DECISION No. 5108.

IN THE MATTER OF THE APPLICATION OF (1) SANTA CLARA WATER AND IRRIGATING COMPANY AND FARMERS DITCH IRRIGATING COMPANY TO SELL TO FARMERS IRRIGATION COMPANY AND RIVER STREET DITCH COMPANY THE SO-CALLED "FARMERS DITCH AND WATER SYSTEM," AND THE APPROVAL OF AN AGREEMENT ADJUSTING RIGHTS IN AND TO THE WATERS OF THE SANTA CLARA RIVER; (2) RIVER STREET DITCH COMPANY TO ISSUE TEN THOUSAND DOLLARS PAR VALUE OF STOCK; (3) FARMERS IRRIGATION COMPANY TO ISSUE FIFTY-NINE THOUSAND DOLLARS PAR VALUE OF STOCK, PLUS SUCH AN ADDITIONAL AMOUNT AS THE RAILROAD COMMISSION MAY ALLOW TO PAY INCORPORATION EXPENSES.

Application No. 3246.

*Decided February 5, 1918.*

Authorization issued permitting: Santa Clara Water and Irrigating Company and Farmers Ditch Irrigating Company to transfer certain irrigation properties to the Farmers Irrigation Company for the sums of \$61,500.00 and \$7,500.00, respectively, and the latter to issue \$60,000.00 par value of its capital stock to be sold at not less than par, of the proceeds, \$51,500.00 to be paid Santa Clara Company and \$7,500.00 to Farmers company for properties acquired, the balance to cover organization expenses. River Street Ditch Company authorized to issue \$10,000.00 par value of stock to be sold at par, proceeds to be paid Santa Clara company in part payment for transferred properties. Execution of an agreement covering division of water of Santa Clara River and its diversion through and joint use of various ditches also authorized, provided such joint use does not interfere with the rendering of efficient service.

*George E. Farrand* and *L. W. Andrews*, for Farmers Irrigation Company, Farmers Ditch Irrigating Company and River Street Ditch Company.

*W. H. Barnes* and *Hugh L. Weldon*, for Santa Clara Water and Irrigating Company.

*Earl E. Moss*, for Vineyard Ditch Company, Protestant.

BY THE COMMISSION.

OPINION.

In this application Farmers Irrigation Company, a new corporation, asks authority to buy the so-called Farmers Ditch and Water Rights, located in Ventura County, from Santa Clara Water and Irrigating Company and Farmers Ditch Irrigating Company. The two latter companies join in the application. A description of the property is found in "Exhibit 3" attached to the petition herein.

In order to pay for the aforesaid properties Farmers Irrigation Company desires to issue and sell \$59,000.00 of stock at par. It also asks for authority to issue stock for organization and legal expenses in an amount to be determined by the commission.

River Street Ditch Company asks for authority to issue and sell \$10,000.00 of stock at par, the proceeds to be paid to Santa Clara Water and Irrigating Company in return for certain rights and privileges which it expects to gain through the transfer.

The commission is also asked to approve certain contracts and agreements between the above-mentioned parties as hereinafter more fully set forth.

A hearing in this matter was held before Examiner Encell at Ventura on October 23, 1917. At the hearing, Earl E. Moss appeared as representative of the majority stockholder of Vineyard Ditch Company and asked leave and was granted permission to file subsequent to the hearing a statement as to the position of his client. Mr. Moss has recently advised the commission that he does not desire to avail himself of this privilege.

The primary purpose of this application appears to be to settle certain questions long in dispute and litigation between the parties hereto. For an understanding of the situation, it seems necessary to describe briefly the location of the property proposed to be transferred and the relations existing between the parties directly or indirectly interested in said property.

The Santa Clara River flows across Ventura County in a general westerly direction. Near the city of Santa Paula in said county four ditches divert water for irrigation purposes. These ditches are:

(a) Farmers ditch upon north side of river, intake approximately  $1\frac{1}{4}$  miles above Santa Paula, owned by Santa Clara Water and Irrigating Company. Certain rights therein are claimed by Farmers Ditch Irrigating Company.

(b) River Street ditch upon north side of river; intake just above Santa Paula, owned by River Street Ditch Company.

(c) Santa Clara ditch, on south side of river; intake approximately eight miles below Farmers ditch, owned by Santa Clara Water and Irrigating Company.

(d) Vineyard ditch, on south side of river; intake approximately two miles below Santa Clara ditch, owned by Vineyard Ditch Company.

The Farmers ditch first described, together with its appurtenant water rights, is the property now sought to be transferred. This ditch has passed through many changes of ownership and a detailed history of these changes will be found in Decision No. 1452 (Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 810).

Santa Clara Water and Irrigating Company, the present owner of this ditch and water system, hereinafter sometimes referred to as Santa Clara company, was incorporated on January 5, 1871, with an authorized capital stock issue of \$50,000.00 which was subsequently increased to \$250,000.00. Its annual report to this commission for the year ending December 31, 1916, shows stock actually issued amounting to \$48,250.00. The company has an outstanding bonded indebtedness of \$100,000.00 of 6 per cent first mortgage gold bonds, dated February 1, 1906, and maturing February 1, 1926. These bonds are a first lien upon all the real property of the company including Farmers ditch. In addition to operating the Farmers ditch, the Santa Clara company also operates the Santa Clara ditch located on the south side of the river. At the present time, irrigating waters for Vineyard Ditch Company are diverted by Santa Clara company through its Santa Clara ditch under a temporary arrangement between the two companies. All of the bondholders of Santa Clara company as well as the Metropolitan Bank and Trust Company of Los Angeles, trustee under the mortgage securing the payment of the bonds, have agreed to the sale and transfer of the so-called Farmers ditch and appurtenant water rights. If the application is granted, Santa Clara company proposes to retire \$50,000.00 of its bonded indebtedness. The balance of the funds received from the sale of the property will be applied to the reduction of note indebtedness.

Farmers Ditch Irrigating Company was incorporated on June 16, 1898, with an authorized capital stock of \$100,000.00, of which \$35,000.00 par value is outstanding and is owned by Limoneira Company, the latter corporation being engaged in farming and growing of oranges, lemons, walnuts and beans.

Farmers Ditch Irrigating Company was at one time the sole owner of the Farmers ditch and water rights. On September 21, 1904, it transferred the ditch and water rights to one Leopoldo Schiappa Pietra, who on April 15, 1905, transferred his title to Santa Clara company for a consideration of \$33,995.00. At the time Farmers Ditch Irrigating Company transferred the property to Schiappa Pietra it reserved 200 inches of water which it had undertaken to deliver for an indefinite period to certain lands then owned by a Mrs. Ramsey and now owned by Limoneira company. This reservation also included the necessary right of way and easement for the transportation of said water. The same reservation appears in the deed from Schiappa Pietra to Santa Clara Company. Schiappa Pietra, and Santa Clara company as his successor, also assumed to contract with Thermal Belt Water Company, a mutual water company, agreeing to furnish for a period of forty years 200 inches of water at a yearly rental of \$800.00.

In July, 1912, Santa Clara company filed its Application No. 136 with this commission and asked authority to increase its rates to a uniform basis of 25 cents per day inch. At that time it was delivering 200 inches of water to Thermal Belt Water Company at a yearly rental of \$800.00 and 200 inches of water to Limoneira Company without remuneration, under the contracts or reservations above referred to.

The commission in Decision No. 1452 fixed the rates to be charged by Santa Clara company as follows:

For water furnished Thermal Belt Water Company.....	\$2,000.00 per year
For water furnished Limoneira Company.....	2,000.00 per year
For water furnished all other consumers.....	20 cents per miner's day inch

After the making of the commission's order, Thermal Belt Water Company, the Limoneira Company and Farmers Ditch Irrigating Company applied to the Supreme Court for a writ of review, which was granted. On January 23, 1917, the court affirmed the order of the commission and on February 19, 1917, denied the application of petitioners for a rehearing.

Thereafter Thermal Belt Water Company declined to receive any water from Santa Clara company and a contention then arose between it and Santa Clara company as to whether Thermal Belt Water Company was obligated to pay for said water at the rate fixed by the commission whether it took any water or not, it being the contention of Santa Clara company that the order of the commission with reference to the Thermal Belt Water Company was merely a modification of the lease to the extent that it modified the rate to be charged. Thermal Belt Water Company, on the other hand, contended that the order of the commission invalidated the whole contract, made it a consumer merely and that if it did not take any water it should not pay the rate. Farmers Ditch Irrigating Company for its part contended that the order of the commission and the order of the Supreme Court dealt merely with the question of the rate and that the commission had no authority to determine the title to the 200 inches of water. In answer to this Santa Clara company contended that the commission had complete jurisdiction not merely over rates, but also to try title, that it took jurisdiction, heard testimony and did determine that the said deed to Schiappa Pietra in so far as it attempted to reserve 200 inches of water and the necessary rights of way was such as to convey title absolutely to Schiappa Pietra and that having acquired title by his deed, he conveyed title to the Santa Clara company and that the title to the Farmers ditch and all rights appurtenant thereto have vested and now vest in Santa Clara company. Farmers Ditch Irrigating Company argues that this conclusion does not follow from the decision of the commission nor from the decision of the Supreme Court, but that on the contrary there has

been at all times open to Farmers Ditch Irrigating Company its right to determine the title to the 200 inches of water in a court which would have jurisdiction to adjudicate questions of title to real property and states that it has considered the matter of a rescission of its contracts between it and Santa Clara company upon the ground that it was understood that the effect of the deed was to reserve a part and to convey a part, and that if now it be held that that is not the true legal effect of these instruments, the parties were laboring under a common mistake of law, and further, that there was a failure of consideration moving from the purchaser to the Farmers Ditch Irrigating Company.

All of these issues have developed claims and counterclaims between the several parties, and it is for the purpose of attempting to bring about a complete settlement thereof without further litigation that the present application is made to this commission.

As a result of negotiations between Mr. C. C. Teague, manager of the Limoneira Company, the Santa Clara company and Farmers Ditch Irrigating Company, the Santa Clara company has agreed to sell its interest in the Farmers ditch and rights appurtenant thereto to C. C. Teague or his nominee for \$61,500.00; the Farmers Ditch Irrigating Company has agreed to sell its rights and interests under the reservation referred to in the same property to C. C. Teague or his nominee for \$7,500.00.

On or about July 23, 1917, Mr. C. C. Teague caused to be organized the Farmers Irrigation Company having an authorized capital stock of \$100,000.00 divided into 1,000 shares of the par value of \$100.00 each. He has selected the Farmers Irrigation Company as his nominee to finance the transaction referred to in the foregoing paragraph. It is proposed that the Farmers Irrigation Company issue and sell to Limoneira Company \$59,000.00 of stock at par for cash; \$51,500.00 of the proceeds to be paid to the Santa Clara company for its properties and \$7,500.00 to be paid to Farmers Ditch Irrigating Company. It is further proposed that the River Street Ditch Company, owner of the River Street ditch, issue to the Thermal Belt Water Company, a mutual company, at par for cash \$10,000.00 of stock and use the proceeds to pay the balance due on the purchase of the Santa Clara company properties by Farmers Irrigation Company.

River Street Ditch Company was incorporated on or about December 15, 1916, with an authorized capital stock of \$20,000.00 divided into 2,000 shares of the par value of \$100.00 per share.

By Decision No. 4241, dated April 11, 1917, it was authorized to issue and sell \$5,500.00 par value of stock to purchase property and pay for organization expenses. Ten-elevenths of the outstanding stock of the River Street Ditch Company is owned by Thermal Belt Water

Company, which in turn is controlled by the Limoneira Company. As said, the River Street Ditch Company now desires authority to issue and sell at par to Thermal Belt Water Company additional stock in the amount of \$10,000.00. It desires to use the proceeds to pay in part for properties to be acquired by Farmers Irrigation Company from Santa Clara company. Mr. C. C. Teague justifies this payment upon the ground that if this application is granted, the River Street ditch in common with the Farmers ditch will be entitled to one-half of the water flowing in the Santa Clara River to which Santa Clara Water and Irrigating Company and River Street Ditch Company are now entitled. This he holds is an important consideration for the reason that the rights of the River Street Ditch Company have never been adjudicated and that the intake of the River Street Ditch Company is below that of the Farmers ditch. He also calls the commission's attention to the fact that if this application is granted there will be vested in the Limoneira Company the ultimate control of two public service corporations—Farmers Irrigation Company and River Street Ditch Company. The testimony shows that it is the intention of the two companies to make a joint diversion of the waters in the Santa Clara River to which they are entitled and by such joint diversion and joint operation reduce the operating expenses.

Under the circumstances of this case, we believe that the River Street Ditch Company may be permitted to issue \$10,000.00 of stock for the purposes indicated, with the understanding that the issue of this stock will never be urged upon the Railroad Commission or any other public regulatory body as a measure of value for the properties of River Street Ditch Company acquired through the issue of stock.

The parties to this application have entered into an agreement (Exhibit No. 4, attached to the petition) under the terms of which they will divide the waters of the Santa Clara River to which they are entitled. Mr. George E. Farrand, counsel for Farmers Irrigation Company, testified that the parties hereto were not attempting to divide all the waters of the river but only such to which they are entitled. In general the agreement provides that the water shall be equally divided between Farmers Irrigation Company and River Street Ditch Company on the one hand, and Santa Clara Water and Irrigating Company on the other hand. The latter company agrees to protect the two former companies from any claim to said waters by Vineyard Ditch Company.

Mr. George C. Powers, engineer for and president of Santa Clara Water and Irrigating Company testified that in his opinion the Santa Clara company will encounter no difficulty in satisfying the demands of the Vineyard Ditch Company and that he knew of no reason why this deal could not be consummated or that it will in any way prejudice

public service. From data submitted by applicants it appears that the proposed division of the water as agreed upon is reasonable.

The Farmers Irrigation Company and River Street Ditch Company asked for authority to make a joint diversion of the waters to which they are entitled whenever they deem a joint diversion desirable. Such diversion should result in a material reduction of operating expenses. It is of course understood that the joint diversion will in no wise interfere with proper service.

Mr. George C. Powers, president of Santa Clara Water and Irrigating Company, appraised the properties to be sold and transferred at \$136,190.10 as of October 1, 1917. He allows \$67,819.00 for rights of way and floatage rights; \$43,290.10 for structures and \$25,000.00 for water rights. Mr. James Armstrong, assistant engineer of the Railroad Commission, appraised the structures at \$22,930.60 and the rights of way and floatage rights at \$7,006.16; total \$39,936.76. Mr. Armstrong made no attempt to ascertain the value of the water rights to be acquired by Farmers Irrigation Company. He endeavored to find a historical reproduction cost less depreciation of the rights of way and structures. Mr. Powers, on the other hand, in appraising the property used present day prices. This difference in method accounts primarily for the difference in the appraisal of the rights of way and structures. We believe that the property to be sold and transferred is reasonably worth the amount of stock to be issued in exchange therefor and that therefore it is unnecessary for the commission to adopt either the appraisal of Mr. Powers or that of Mr. Armstrong.

In addition to issuing \$59,000.00 of stock to acquire properties, Farmers Irrigation Company asks authority to issue stock to pay organization expenses. These expenses are reported at \$1,591.01. To pay the same we believe that Farmers Irrigation Company should be permitted to issue at par \$1,600.00 of its common capital stock.

#### ORDER.

Santa Clara Water and Irrigating Company and Farmers Ditch Irrigating Company having applied to the Railroad Commission to sell to Farmers Irrigation Company the so-called Farmers Ditch and Water System and Farmers Irrigation Company and River Street Ditch Company having applied to the Railroad Commission for authority to issue stock, and said companies having asked the Railroad Commission to approve a certain agreement to which reference has been made in the foregoing opinion, and a public hearing having been held, and it appearing to the Railroad Commission that this application should be granted and that the money, property or labor to be acquired through the issue of the stock herein authorized is reasonably required for the purposes specified in the order and that the expenditures for said purposes are

not in whole or in part reasonably chargeable to operating expenses or to income.

*It is hereby ordered* as follows:

1. Santa Clara Water and Irrigating Company is hereby authorized to sell and transfer to Farmers Irrigation Company for \$61,500.00, the so-called Farmers Ditch and Water System described in Exhibit "3" attached to the petition herein.

2. Farmers Ditch Irrigating Company is hereby authorized to sell its interest in said Farmers Ditch and Water System to Farmers Irrigation Company for \$7,500.00.

3. Farmers Irrigation Company is hereby authorized to issue at not less than par value for cash \$60,600.00 of stock and use the proceeds for the following purposes:

(a) The sum of \$51,500.00 to pay in part for the properties to be acquired from Santa Clara Water and Irrigating Company.

(b) The sum of \$7,500.00 to pay for the properties to be acquired from Farmers Ditch Irrigating Company.

(c) The sum of \$1,600.00 to pay for organization expenses.

4. River Street Ditch Company is hereby authorized to issue and sell at not less than par value for cash \$10,000.00 of stock and use the proceeds to pay in part for the properties to be acquired by Farmers Irrigation Company from Santa Clara Water and Irrigating Company.

5. Santa Clara Water and Irrigating Company, Farmers Irrigation Company and River Street Ditch Company are hereby authorized to enter into an agreement substantially in the same form as the agreement attached to the petition herein and marked Exhibit "4," said agreement relating to the division of the waters in the Santa Clara River to which said companies are entitled.

6. Farmers Irrigation Company and River Street Ditch Company are hereby authorized to make joint diversion or diversions of a part or all of the waters of Santa Clara River to which said companies respectively are entitled through one or more ditches and to make joint use of a part or all of such ditch or ditches and under such arrangements as said companies may agree upon, provided that such joint diversion or diversions shall in nowise interfere with rendering proper service.

The authority herein granted is granted upon the following conditions and not otherwise:

A. The price which Farmers Irrigation Company and River Street Ditch Company are paying for the properties which are to be conveyed to them shall never be urged before the Railroad Commission or any other public authority as representing for rate-making or for any other purpose the fair value of said properties.



B. Within thirty days after the date of the order herein or after the execution and delivery of the instruments of conveyance herein provided for, Farmers Irrigation Company shall file with the Railroad Commission a certified copy of each and every deed of conveyance.

C. Farmers Irrigation Company and River Street Ditch Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month make verified reports to the Railroad Commission in accordance with the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

D. The authority herein given to convey property and issue stock shall apply only to such instruments of conveyance as have been executed and delivered and to such stock as shall have been issued on or before June 30, 1918.

Dated at San Francisco, California, this fifth day of February, 1918.

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Decision No. 5111.

IN THE MATTER OF THE APPLICATION OF JESSE S. HARKER AND EDNA M. HARKER FOR AN ORDER AUTHORIZING THE MORTGAGE OF MELVIN PLACE WATER PLANT IN THE COUNTY OF LOS ANGELES TO B. L. PAYTON.

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Application No. 3426.

*Decided February 6, 1918:*

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A mortgage executed and note issued prior to the date a public utility secures an order of the Railroad Commission authorizing such action is null and void, and such authorization when issued does not ratify the action or validate the instruments.

Applicants authorized to execute a mortgage covering its water properties in Los Angeles County and to issue thereunder a two-year note in the sum of \$2,000.00, the proceeds thereof to be used in reimbursing themselves in part for money invested in the water plant.

*Charles L. Evans*, for Applicant.

BY THE COMMISSION.

**OPINION.**

This is an application of Jesse S. Harker and Edna M. Harker, his wife, for authority to mortgage an unincorporated water plant and system located in Los Angeles County and to issue a two-year promissory note in the principal sum of \$2,000.00, bearing interest at 7 per cent per annum for the purposes hereinafter set forth.

A public hearing in this matter was held before Examiner Encell in Los Angeles on January 5, 1918.

The property which applicants propose to mortgage is commonly known as the Melvin Place water plant and is located just outside the city limits of Los Angeles. This property has been the subject of a number of previous orders by this commission. (Decision No. 272, Vol. 1, Opinions and Orders of the Railroad Commission of California, page 727; Decision No. 1447, Vol. 4, Opinions and Orders of the Railroad Commission of California, page 798; Decision No. 4037, and Decision No. 4236.)

In Decision No. 4037, dated January 20, 1917, applicants were authorized to transfer Melvin Place water plant to Jean H. Bakeman in exchange for 520 acres of land in Juab County, Utah. The testimony in the present application shows that this deal has not been completed and that although the deeds are still in escrow there is little likelihood of any action being taken under the authority heretofore granted by the commission. Attorney for applicants insists that there is nothing in the present status of the negotiations which would prevent his clients from mortgaging the property as herein proposed.

It is our opinion that applicant herein should not be permitted to encumber the property which is the subject matter of this application until the proposed conveyances have been withdrawn from escrow and a request filed with this commission by the parties to the former application under the commission's Decision No. 4037, that the order made therein be vacated and set aside.

In Decision No. 4236, dated April 7, 1917, this commission authorized Mrs. Jean Bakeman to transfer the Melvin Place water plant to a corporation to be known as Melvin Place Water Company in exchange for stock and notes, it being represented to the commission that the property in question had already been acquired by Mrs. Bakeman. No action has been taken under this order and none should have been taken as according to the testimony now before the commission, Mrs. Bakeman has to date not acquired title to the property in question.

Applicants in the present proceeding represent that the income from this system during the year 1917 was approximately \$2,400.00 and that the operating and maintenance expenses during the same period amounted to approximately \$480.00.

The petition fixes the estimated value of the property at \$22,500.00, which is slightly in excess of an estimate of the original cost of the property made by the commission's engineers in the proceedings covered by Decision No. 4236.

Subsequent to the hearing in this matter applicants filed, at the request of the commission, a copy of the proposed mortgage and note. From these instruments it appears that they were formally executed on December 12, 1917, or prior to the receipt of an order from this com-

mission. They are accordingly void and the order entered in this proceeding should not be taken as ratifying them.

It is the purpose of applicants if this petition is granted to use the proceeds from the issue of the note for purposes not connected with the operations of the public utility. As there is no encumbrance upon the utility property and as the same has been acquired and constructed by applicants out of their personal resources, there appears to be no reason why they may not be permitted to reimburse themselves in part for such expenditures.

#### ORDER.

Jesse S. Harker and Edna M. Harker, his wife, having applied to the Railroad Commission for authority to mortgage the public utility property known as the Melvin Place water plant located in the county of Los Angeles and for authority to issue a two-year promissory note in the sum of \$2,000.00 bearing interest at 7 per cent per annum, said note to be secured by the above mentioned mortgage, and a public hearing having been held, and it appearing to this commission that the money, property or labor to be procured or paid for by the issue of said note is properly required for the purposes set forth in the order,

*It is hereby ordered* that Jesse S. Harker and Edna M. Harker, his wife, be and they are hereby authorized to execute a mortgage upon the public utility water plant and system located in Los Angeles County, commonly known as Melvin Place water plant, said mortgage to be substantially in the form of a mortgage filed with this commission on January 7, 1918, and marked Exhibit "A."

The approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only and is an approval only in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

*It is hereby further ordered* that Jesse S. Harker and Edna M. Harker, his wife, be and they are hereby authorized to execute a promissory note payable not to exceed two years after date to B. L. Payton in the principal sum of \$2,000.00 bearing interest at not to exceed 7 per cent per annum, for the purpose of reimbursing themselves in part for moneys invested in Melvin Place water plant.

The authority herein granted is granted upon the following conditions:

1. Within thirty days after the execution of the note and mortgage herein authorized, applicants shall report such fact to the commission.

2. The authority herein granted applicants to issue a promissory note is conditioned upon the payment of the fee prescribed by the Public Utilities Act.

3. The authority herein granted applicants to execute a mortgage and issue a note shall apply only to such mortgage as shall have been executed and such note as shall have been issued on or before July 1, 1918.

4. The authority herein granted applicant to execute a mortgage and issue a note shall not become effective until such time as this commission shall by a supplemental order vacate and set aside its Decision No. 4027, which said decision was dated January 20, 1917.

Dated at San Francisco, California, this sixth day of February, 1918.

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DECISION No. 5114.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON AND REMOVE ITS RAILROAD TRACKS ON MILL STREET, IN THE COUNTY OF SAN BERNARDINO, BETWEEN "E" STREET AND A POINT THREE HUNDRED FEET WEST OF THE JUNCTION WITH PETITIONER'S DOUBLE TRACK LINE TO REDLANDS.

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Application No. 3438.

*Decided February 7, 1918.*

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BY THE COMMISSION.

**ORDER.**

Pacific Electric Railway Company having made application for permission to abandon and remove its single track railway on Mill street between E street and a point three hundred (300) feet west of the junction of said single track line with the double track line of the applicant to Redlands as shown on a map (M. W. 854-2) filed as an exhibit with this application, and permission having been granted by the board of supervisors of San Bernardino County for the abandonment of the franchise covering the above-described track as evidenced by the action recorded on August 8, 1917, page 205, Book V of minutes of board of supervisors of San Bernardino County, and the commission being fully advised and of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that this application be and the same hereby is granted.

Dated at San Francisco, California, this seventh day of February, 1918.

## DECISION No. 5115.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY TO ABANDON TEN THOUSAND ONE HUNDRED TWELVE LINEAL FEET OF TRACK AT ARCADIA RACE TRACK IN THE COUNTY OF LOS ANGELES, CALIFORNIA.

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Application No. 3455.

*Decided February 7, 1918.*

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BY THE COMMISSION.

## ORDER.

Pacific Electric Railway Company, a corporation, having filed application for permission to abandon and remove 10,112 lineal feet of track originally constructed to serve the race track at Arcadia in Los Angeles County, as shown on blue print (M. W. H. 2930) attached to application, for the reason that the track has been of no service to the public for some years and that the material now in the track can be used at other locations on the railroad system of the applicant, and the commission being fully advised and of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted.

*It is hereby ordered* that this application be and the same hereby is granted.

Dated at San Francisco, California, this seventh day of February, 1918.

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DECISION No. 5119.

CHARLES SHERMAN ET AL.

vs.

CALIFORNIA-MICHIGAN LAND AND WATER COMPANY.

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Case No. 1068.

*Decided February 7, 1918.*

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In establishing the value of a public utility water system for rate fixing purposes, the railroad commission will not use the present high prices of materials and supplies in determining the value of the physical portions of the properties, but will use prices averaged over a period of years so as to compensate for abnormally low or high figures.

No allowance is made for percolating waters aside from the value of the land considered for all purposes to which it might be put, including its use as water-bearing land.

A land company opening a tract and constructing a water system the pipes of which were laid along private rights of way only a short distance of which was purchased by the company can not claim an allowance for such rights especially when the pipes could have been laid along public thoroughfares.

The full value of pipe lines constructed to supply two different tracts, one of which has been developed and the other not, can not be charged to the developed tract. Such portion of the system as is actually used in the service of present consumers, with a reasonable allowance for overbuilding is allowed.

The full value of defendant's pumping capacity which is 6.2 times that necessary for an average day's use will not be allowed. Allowance made on a basis of double the present daily average.

Revised schedule of rates effective March 1, 1918, established, which include: 600 cubic feet or less, \$1.00 per month, 600 to 1,600 cubic feet, 10 cents per 100, over 1,600 cubic feet, 3½ cents per 100.

*Charles Sherman*, for Complainants.

*Richard C. Goodspeed*, for Defendant.

BY THE COMMISSION.

#### OPINION.

The complaint in this proceeding was made by twenty-eight residents of the so-called South Santa Anita Tract, Los Angeles County. These complainants are users of water from the system of the California-Michigan Land and Water Company hereinafter referred to as defendant.

The complaint alleges in effect that the rates charged by defendant are excessive, unreasonable and unjust and asks that a fair and reasonable rate schedule be established.

Defendant in its answer denies that the charges are excessive and alleges that the present rate schedule does not provide sufficient revenue to cover operating expenses and depreciation charges and asks that a reasonable and just schedule of rates be established.

Public hearings were held in Los Angeles on July 28, and October 12, 1917, by Examiner Encell.

The California-Michigan Land and Water Company was organized December 21, 1910, primarily for the purpose of developing for residential uses some 167 acres of land lying a few miles directly east of Pasadena known as the Michillinda Tract. The water system was then constructed as an adjunct to the real estate business. In the early part of 1913, defendant began supplying water to such few residents as occupied its tract. Shortly thereafter defendant acquired the water system owned and operated by the Cribb-Brodek Light and Water Company for the sum of \$3,500.00, which system was then supplying water to the residents of the South Santa Anita Tract, a contiguous tract on the south and east of the Michillinda Tract. The transfer of this property was authorized by this commission on January 15, 1913, in Decision No. 407 in Application No. 273, entitled "In the matter of the Application of the California-Michigan Land and Water Company for permission to exercise franchises and for extensions" (Vol. 2, Opinions and Orders of the Railroad Commission, p. 31). Permission to extend into the South Santa Anita Tract was granted provided the rate to the residents of this tract would not exceed \$2.00 per month for

1,333½ cubic feet or less and 3½ cents per 100 cubic feet for water used in excess. These are the rates now in effect.

Water supply for this system is obtained from six wells located on the northerly part of the Michillinda Tract. From these wells the water is pumped into four concrete reservoirs and is thence distributed throughout the Michillinda and South Santa Anita Tracts. The average number of consumers in 1916 was 144. At present this has been increased to 179 taps, practically all of which are active. Of these consumers seven only are on the Michillinda Tract.

For convenience the subject matter of this application will be considered under the following heads: Appraisal, Service Value, Maintenance and Operation Expense, The Rate. These will be discussed in the order named.

### *Appraisal.*

Appraisals were filed by Mr. Goodspeed for the company and by Assistant Engineers C. H. Loveland and J. G. Walther for the commission. A comparative tabulation of these appraisals follows:

Designation	Commission engineers, estimated cost	Goodspeed for company		
		Reproduction cost	Original cost	Present value
Distribution system -----	\$24,036 00	†\$51,289 28	\$23,949 00	†\$29,036 00
Meters and services -----	3,983 00	6,690 00	3,409 00	3,429 00
Reservoirs -----	4,619 00	5,850 00	3,900 00	3,137 00
Pumping equipment -----	2,934 00	5,725 00	3,900 00	4,015 00
Wells -----	6,030 00	7,100 00	7,100 00	5,000 00
Buildings -----	118 00	*	*	*
Tanks -----	171 00	*	*	*
Pumping pits -----	1,036 00	*	*	*
Tools, etc. -----	300 00	*	*	*
<b>Totals -----</b>	<b>\$13,287 00</b>	<b>\$76,651 28</b>	<b>\$42,258 00</b>	<b>\$44,617 00</b>

\*Included in items above.

†Franchise cost, engineering and legal expense, included.

In the appraisal submitted by the company the prices of material are as of the date of the appraisal. The present condition has resulted in abnormally high prices and makes the use of present prices in a reproduction new method of valuation manifestly unfair to the consumer. It was testified by Mr. Elmer Anderson, superintendent of the company, that prices had increased 15 per cent since the date of the appraisal and would continue to increase for a long period.

The commission's engineers have used prices averaged over a period of years, thus compensating for periods of abnormally low or high prices. The estimate of the commission's engineers checks the estimate of original cost made by the company very closely. In view of these facts it is fair and is found as a fact that the commission's engineer's

appraisal of \$43,287.00 is a fair amount for the estimated cost new of the physical structures of this system.

Real estate and water rights are not included in the above tabulation.

Defendant in Exhibit "3" contends that its water rights have a value of \$60,000.00 which sum is arrived at by assuming a use of 80 miner's inches continuous flow at \$750.00 per miner's inch.

The water is obtained from wells sunk directly behind the so-called Raymond Hill dyke which is composed of a soft miocene sandstone. This dyke is a natural underground dam and forms a natural reservoir. The difference in the distance to the water plane from the ground surface, above and below the dyke on the Michillinda and South Santa Anita tracts varies from 50 to 100 feet. Water is thus more readily obtainable in the area above the dyke from which this company obtains its water supply.

This commission has repeatedly held that in the case of percolating waters, these waters can have no value aside from the value of the land considered for all purposes including the pumping of water therefrom; and we shall in this instance consider the value of the lands to this company for all available uses that it might be put to including its use as water-bearing land.

The testimony shows that the lots upon which are located the wells and reservoirs of defendant are used for agricultural and other purposes.

The maps of this system filed show that in most instances only a very small portion of the land reserved for water uses and which the defendant desires to have the commission consider as a capital investment is actually used for defendant's water business.

Defendant herein claimed in its appraisal a value of \$10,500.00 for the lands which have been made unmarketable by reason of the location of wells and reservoirs thereupon. However, the land actually used for these purposes does not constitute more than one-third of the area of the lands upon which these water production facilities are located; nor would an allowance of the land's full value take into consideration the fact that defendant is using the remaining two-thirds of these lands for agricultural and other purposes. Furthermore because defendant was the owner of the entire tract, it has scattered its plants and laid pipes on different portions of the tract without any regard to an economy of space such as would have been exercised had it been necessary for them to have purchased land for the location of these facilities from third parties.

Taking into consideration the scattered location of the wells and reservoirs and the further fact that the land is used for agricultural purposes without any interference or diminution of its value as a water producer, we believe that if defendant herein is allowed a return



upon the sum of \$5,550.00 that the commission is giving to the utility a fair allowance for its capital invested in water-bearing lands.

Defendant has included in its appraisal 25,000 feet of private right of way at \$150.00 per 1,000 feet or a total of \$3,750.00 for rights of way. This price is based upon the price paid by the defendant for one-half mile of right of way which was purchased from an adjacent property owner. Defendant has laid its water mains along the rear of the lots into which their tract has been subdivided instead of placing the same in the dedicated streets of the tract. This was done by them to avoid placing of meter boxes and service connections in the front of their lots. The right of way upon which this valuation was placed by the defendant is merely an easement and does not in any wise lessen the value of the property upon which it is laid. Taking this fact into consideration and the further fact that defendant could have secured a franchise to place its mains in the dedicated streets at practically no cost to itself, the amount claimed herein is not only excessive but taking into consideration the facts hereinabove set forth, we believe that these easements should not be capitalized in this proceeding.

Only one strip of right of way one-half mile in length was purchased. At the time of the installation of the ten-inch main to the South Santa Anita Tract it became necessary to purchase a right of way from the Chapman ranch. This right of way one half mile in length cost \$400.00.

*Service value.*

As before stated the company purchased from the Cribb-Brodek Company that portion of its system which supplies the South Santa Anita Tract with water at a cost to itself of \$3,500.00. The property purchased for this sum provided a water supply for the South Santa Anita Tract. In order, however, to be able to better supply the South Santa Anita Tract and also to supply the Michillinda Tract a six-inch and ten-inch main were laid from the wells in the Michillinda Tract to the South Santa Anita Tract at a considerable cost. The commission's engineer reports that that portion of the system purchased from Cribb-Brodek Company would cost new \$10,803.00 exclusive of rights of way over private land. This large investment is disproportionate to the service rendered the water consumers in the South Santa Anita Tract.

At the time that the facilities of the defendant herein were connected with the South Santa Anita Tract, owners of approximately 525 acres in that tract paid to defendant the sum of \$20.00 per acre to assist in financing the extension of that service to their properties. In view of the fact that the Cribb-Brodek system was originally constructed for the purpose of aiding in the sale of real estate and that there was paid

to defendant \$20.00 per acre as a deposit to cover the cost of installing additional facilities, we consider it fair for the purposes of this proceeding that the original cost to defendant of the equipment to supply the South Santa Anita Tract, namely \$3,500.00 be regarded as a fair sum to be capitalized.

It was contended by defendant that the portion of the system which supplies the South Santa Anita Tract should be segregated and a rate for that tract only computed. All of the complainants reside in that tract, there being only seven consumers in the Michillinda Tract.

As we have hereinabove stated, defendant has charged against the South Santa Anita Tract the six-inch and ten-inch pipe line extending through the Michillinda Tract from the wells and reservoirs located thereon. As was hereinabove pointed out this line was installed in such a manner that it could supply a large portion of the Michillinda Tract and its location was chosen for that purpose. The wells and reservoirs served a similar purpose. We are of the opinion that it would be unfair under the circumstances to fix a different rate for the different tracts because in so doing it would place the burden of practically the entire system upon the consumers of the South Santa Anita Tract.

The Michillinda Tract was put on the market at approximately the same time as the water system was constructed, but owing to the slump in real estate, sold very slowly. At present there are only seven consumers served in addition to the use of water by defendant for domestic and irrigation purposes on its property. Defendant has two domestic and eight irrigation connections. The use of water through the irrigation services for the year 1916 was reported to be 2,200,000 cubic feet. There are about 300 lots in this tract each approximately one-half acre in size within the area reached by this system.

The South Santa Anita Tract is divided into 105 lots of approximately 5 acres each and of these all but 18 were served in 1916 and it is reported by Mr. Anderson, defendant's superintendent, that the entire tract is irrigated this year. On this tract each lot averages approximately two services and considering this as normal we find that under the whole system there are approximately 500 lots that can be served while the company is now serving only 167.

It therefore appears that while the South Santa Anita Tract is practically fully developed, the Michillinda Tract is still in its infancy as to development and it would be unfair to charge a pipe system of this extent to the present consumers. We believe that in this instance it is fair to include that portion of the system used in the service of the present consumers with reasonable allowances for overbuilding such as occur in normal systems and for such additional short extensions and service connections as become necessary.

We will, therefore, assume that the pipe lines other than those purchased from the Cribb-Brodek Company are used in the proportion of 400 to 167 and thus include a liberal overbuilding allowance for 100 possible consumers. The commission's engineers appraised this pipe system at \$15,292.00 and using the above proportion we arrive at a service value for present consumers of \$6,380.00.

The testimony of Mr. Anderson, superintendent of the company, shows that the pumping plants of this company have a capacity of 145 miner's inches or 250,500 cubic feet per day. During July, 1916, in which the maximum consumption occurred, the record shows an average daily use of 40,000 cubic feet or 23 miner's inch days.

The reservoirs of this company have a capacity of 69,000 cubic feet or more than sufficient for an average day's use in the maximum month. We find, therefore, that the present pumping system without considering storage is 6.2 times the capacity necessary for an average day's use.

It assuredly is treating this company liberally if this average use is doubled and used as the measure of proper capacity apart from the additional advantage which the utility has of being able to care for their peak loads from storage. Even after thus doubling the daily use, we find that the present pump capacity is 3.1 times that needed on the preceding basis.

This excess capacity was undoubtedly installed for the purpose of supplying the future use on the Michillinda Tract and therefore the entire cost of the present system is not properly chargeable against present consumers. The amount we believe that is properly chargeable against the present consumers should bear the same ratio to the present investment that the present maximum demand bears to the capacity of the system, together with a reasonable allowance for such over-sizing of its system as might under ordinary circumstances be made in anticipation of the normal development of a company's business. The ratio just suggested would give the sum of \$4,980.00 as that portion of the lands and pumps of defendant which is properly chargeable to the present consumers. This allowance will admit of a stand-by unit for emergencies, in addition to that reserve supply which is in storage.

A resume of the various items going to make up this service value follows:

Purchase from Cribb-Brodek Company.....	\$3,500 00
Pipe system in Michillinda Tract.....	6,380 00
Pumps and equipment.....	4,980 00
Furniture and tools.....	300 00
Reservoirs .....	3,390 00
Services and meters.....	3,983 00
Total .....	<u>\$22,533 00</u>

It is hereby found as a fact that the above sum is the fair service value of defendant's water plant used in the service of its present consumers.

*Maintenance and operation expense.*

Following is a tabulation showing the maintenance and operation expenses for 1915 and 1916 and the amount estimated by defendant as necessary for future operation:

	1915	1916	Estimate
Collections and meter reading.....	\$620 00	\$188 54	*
Pumping expense.....	1,101 20	1,158 27	*
Pumping supplies.....	40 15		*
Fuel and gasoline.....	217 67	290 78	*
Meter repairs.....	1 94	41 97	*
Well repairs.....	27 50		*
Distribution main repairs.....	182 90	123 60	*
Official salaries.....	1,168 31	1,336 72	*
Office salaries.....	515 00	390 00	*
Office expense.....	257 25	319 20	*
Taxes.....	16 20	102 69	*
Office rents.....		180 00	*
Railroad Commission expense.....		6 00	*
Promotion of business.....		3 30	*
<b>Totals .....</b>	<b>\$1,058 15</b>	<b>\$4,141 07</b>	<b>\$4,834 28</b>

\*No details shown.

†From records of company and annual reports.

These charges are a segregation of the charges of both the land and water business. The company maintains for its combined land and water business an office in Los Angeles and also on the tract. A superintendent is in charge at the tract handling both the real estate and water business and in addition a manager is employed who spends most of his time at the Los Angeles office. In addition to this position the manager is also a practicing attorney. A charge of \$1,200.00 per year is included above in the item official salaries.

We are of the opinion that under the direction of the board of directors, the present superintendent can by confining his activities to the business of the water company make the maintenance of a Los Angeles office and a superintendent unnecessary. Should the company, however, desire to continue its present arrangement in order to further its land operations, this commission will not permit them to establish a rate against less than 200 consumers in order to pay the cost of maintaining such an organization.

The franchise granted by the county of Los Angeles provides that after July 1, 1917, this company pay a franchise tax which it is estimated by Mr. Goodspeed will be \$200.00 per annum. In addition to this increase there will be in 1917 a federal tax which is estimated at

\$100.00 per year. These should be added to the annual expense of the company. Correcting the above figures as shown above, we arrive at the sum of \$3,061.00 as the fair annual maintenance and operation charges.

*Total annual charges.*

Summing the foregoing we arrive at the total sum which should be produced each year by the rates:

Interest on \$22,533.00 at 7 per cent -----	\$1,577 00
Annuity -----	862 00
Maintenance and operation expense -----	3,061 00
Total -----	\$5,500 00

*Income.*

The gross water revenue and water use follows:

	Water used in 100 cubic feet	Gross revenue
1913 -----	40,290	\$2,864 00
1914 -----	66,819	4,553 00
1915 -----	81,408	5,767 00
1916 -----	85,155	5,790 00
1917 <sup>a</sup> -----	108,096	6,689 00

<sup>a</sup>October, 1916, to September, 1917, inclusive.

Defendant has irrigated some 45 acres planted to alfalfa, oranges and walnuts and has used during the past year 2,200,000 cubic feet for which it paid \$715.00. The company have eight irrigation and two domestic connections. If the same rate is charged for these including the minimum as other consumers pay this use would produce an income of at least \$905.00 annually or a difference of \$190.00. This gives a total corrected income for 1916 of \$5,980.00.

Attention is called to the increased income for 1917 over 1916. Correcting this as in 1916 there is a total income of \$7,001.00 or an increase of \$899.00 in income to balance against \$500.00 increase in maintenance and operation expense.

*Rate schedule.*

It now remains to compute a rate that will admit of the utility earning such compensation as under all the circumstances is just to it and to the public.

The record of water used in 1916 filed in commission's Exhibit No. 2 shows a total use of 6,497,200 cubic feet exclusive of 2,200,000 cubic feet used by the company on its own lands. After a careful study of the tables of water use filed in commission's Exhibit No. 2 showing the monthly use in varying amounts from 500 cubic feet or less to over 30,000 cubic feet, we have provided a rate set forth in the

order which, based upon the records of use will produce an income amply sufficient to provide for maintenance and operation, depreciation and an adequate return to the company upon the fair value of its property.

**ORDER.**

Public hearings having been held and evidence submitted in the above-entitled proceeding and the commission being fully apprised in the premises and the matter now being ready for decision,

It is hereby found as a fact that the rates charged by the California-Michigan Land and Water Company for domestic and irrigation water in so far as they differ from the rates set out in this order are unjust and unreasonable and the rates set out herein are just and reasonable, and basing this order on the foregoing finding of fact and on the further findings of fact set out in the opinion which precedes this order,

*It is hereby ordered* that California-Michigan Land and Water Company be and it is authorized and directed to file with the Railroad Commission the following schedule of rates, effective March 1, 1918, to be charged by the said California-Michigan Land and Water Company, a corporation, to wit:

600 cubic feet or less, \$1.00 per month.

Between 600 and 1,600 cubic feet, 10 cents per 100 cubic feet.

Over 1,600 cubic feet, 3½ cents per 100 cubic feet.

Dated at San Francisco, California, this seventh day of January, 1918.

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DECISION No. 5120.  
CITY OF CALEXICO

vs.

HOLTON LIGHT AND POWER COMPANY AND SOUTHERN SIERRAS  
POWER COMPANY.

Case No. 1160.

CITY OF BRAWLEY

vs.

HOLTON LIGHT AND POWER COMPANY AND SOUTHERN SIERRAS  
POWER COMPANY.

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Case No. 1163.

*Decided February 7, 1918.*  
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Investigation of the many interruptions in electric service to cities in the Imperial Valley showing that it would not be advisable, under present conditions, to require defendants to incur the heavy expense incidental to constructing a duplicate transmission line or erecting a steam plant at El Centro, following improvements required: (1) The short-circuiting, within ninety days, of

insulator pins on the main transmission line from San Bernardino to El Centro; (2) The removal of an unused generator to the El Centro steam plant, increasing the capacity of such plant at least 300 kilowatts; (3) The construction, by July 1, 1918, of a secondary transmission line from the substation at Calipatria to the city of Brawley.

*Wm. P. Butcher*, city attorney, for city of Calexico.

*Guy L. Rockwell*, city attorney, for city of Brawley.

*I. B. Potter*, for Southern Sierras Power Company, Coachella Valley Ice and Electric Company and Holton Light and Power Company.

*GORDON, Commissioner.*

#### OPINION.

Complainant, city of Calexico, in Case No. 1160, alleges in effect that the city of Calexico and its inhabitants have suffered from frequent and damaging interruptions of electric service, which interruptions have caused considerable inconvenience and loss to consumers of the company; that defendant, Holton Light and Power Company, hereinafter designated as Holton power company, does not adequately maintain sufficient auxiliary power plants in Imperial Valley to supply continuous service. Complainant requests that the commission make the necessary investigation to determine what should be done by defendants to relieve the present situation and order defendants to make such improvements in plant and operation as are necessary to render adequate service.

City of Brawley makes similar allegations to those of city of Calexico regarding the service of Holton power company, and requests that defendant, Holton power company, be required to install a plant or plants sufficient to insure continuity of service to its consumers in the future.

The Southern Sierras Power Company was made a defendant in both cases, as that company is supplying a large portion of the power distributed by the Holton power company.

A hearing in Case No. 1160 was held in Calexico on November 6, 1917, and a hearing in Case No. 1163 in Brawley on November 7, 1917. Defendants, not having time to file their answer to the complaint in Case 1163 before the hearing, stipulated that their answer in Case 1160 should be considered as an answer in Case 1163.

Defendants, in their answer, admit that interruptions have occurred to the electric service, but allege that said interruptions were not due to failure or neglect on the part of defendants, but were due to causes which could not, with reasonable diligence, be seen or averted; that it is impossible and impracticable to maintain a continuous supply of electric energy to the city of Calexico and Imperial Valley; that a certain number of interruptions will always result from failure of different parts of the systems supplying power to the valley.

Defendants stipulated that the service had not been satisfactory and was not what they, defendants, desired it to be. They alleged, however, that they had under way improvements to the transmission line and system which would materially benefit the service.

Mr. I. B. Potter, attorney for defendants, and also attorney for Coachella Valley Ice and Electric Company, requested that the Coachella Valley Ice and Electric Company be made a codefendant in these matters as the Coachella Valley Ice and Electric Company's electric system is an integral part of the general transmission system supplying the Holton Power Company with energy for distribution in Imperial Valley.

Defendant, Holton power company, alleges that it has heretofore installed certain electric plants in Imperial Valley with a total installed capacity of 1,700 kilowatts, but, due to failure of water supply for its hydroelectric plant at Holtville, its available maximum capacity in Imperial Valley is approximately 800 kilowatts, and it further alleges that it has been and is now exercising diligent effort and believes that the Southern Sierras Power Company and Coachella Valley Ice and Electric Company, who are supplying it with a large portion of the power it sells in Imperial Valley, are also exerting diligent effort to fulfill its duty to the public.

Defendants invite the fullest investigation by the Railroad Commission and pledge their cooperation and best effort to comply with any reasonable order and requirements which the Railroad Commission may see fit to propose.

It was understood that evidence in either of the cases should be considered in the other case in so far as the same is applicable, and it was agreed also that further data should be submitted by the defendants and a further investigation made by the commission's engineers as to the entire question of service in the Imperial Valley. It was stipulated that any such additional data submitted by the companies, or report made by the commission's engineers, should be considered in evidence in the matters before the commission.

The cities of Calexico and Brawley, which have brought complaints in this matter, as well as the other cities of El Centro, Imperial and Holtville, are served by Holton power company, and as interruption in the main source of power to the Holton power company will in most cases affect each city equally, the order which the commission makes in these cases will apply to the general situation. These two cases have, therefore, been combined for decision.

Electric service was first introduced in Imperial Valley in 1905 when the Holton power company constructed a hydroelectric plant of 200 kilowatts capacity near Holtville, utilizing the spillway water of the irrigation canal in a drop of 30 feet. Later a steam plant of 300 kilowatts



capacity was installed at El Centro and is still in operation although due to it having been burned out its present capacity is only 150 kilowatts. The demand for electric service in the valley increased rapidly and the Holton power company later installed a 750-kilowatt gas engine electric plant at El Centro which at present is capable of producing approximately 500 kilowatts. Shortly after the first hydroelectric plant was installed the Colorado River broke its embankments, in 1906, and a deeper channel was cut in the Nemo River. Later the company constructed a second hydroelectric plant of 900 kilowatts installed capacity below the first one.

The demand for power, however, soon exceeded the capacity of the existing plants and especially as the hydroelectric plants were not to be depended upon during the summer period due to lack of water, the Holton power company negotiated with the Southern Sierras Power Company for a supply of power from that company's system. In 1914 there was constructed by Coachella Valley Ice and Electric Company, a company closely allied with the Southern Sierras Power Company, a transmission line 166 miles in length extending from Banning to El Centro, operating at a voltage of 55,000 volts with a total capacity of 5,000 kilowatts. Southern Sierras Power Company constructed a similar line from San Bernardino to Banning.

The service in the Valley was materially bettered by the interconnection with the Southern Sierras Power Company and the business of the Holton power company very rapidly increased thereafter until at the present time the Holton power company's system requires over 3,000 kilowatts demand and this demand is still rapidly growing.

The Holton power company's service is limited almost entirely to service within the incorporated cities of Imperial Valley, namely: El Centro, Brawley, Calexico, Holtville and Imperial. This is largely due to the fact that no pumping irrigation exists in the valley, all irrigation being from gravity systems. The company has considerable lighting load and also a very large power load in the fall and winter months due to the service of cotton gins and cottonseed oil mills which operate continuously for about six months of the year.

The present local plant capacity available to supply the demands of the company in case of failure of the transmission system is approximately 650 kilowatts in gas electric and steam electric plants and during a portion of the year an additional capacity of about 600 kilowatts from the hydro plants, from which it is apparent that the local plants are not capable of meeting the company's demands in case of transmission interruptions.

The complaint of the cities against the Holton power company's service was on account of the frequency and length of interruptions to service. It was alleged that in case of failure of the supply from

Southern Sierras Power Company the local supply was not always evenly divided between the cities and that certain cities were given preference.

Testimony of complainants was in general confined to the large number of interruptions which had occurred and the inconvenience and loss to consumers resulting therefrom. Few definite records were obtained by complainants, but it appears that during the last year the service interruptions have materially increased and the consumers of the company have suffered inconvenience and more or less pecuniary loss. During the hearing at Calexico the lighting service at Calexico was off eight minutes and power service was interrupted on the same day for a period of approximately nine hours, due to failure on the main transmission line.

Mr. W. J. Hartman of the Imperial Oil Mills testified that his company's record showed that 34 interruptions to service at their mills had occurred during the operating season of September, 1916, to April, 1917, and as a result the plant was shut down for a total of approximately 135 hours. This report does not exactly coincide with the company's records, as it does not include certain interruptions on days when the plant was closed for overhauling. On certain days the mill was closed down much longer than the power interruption reported. It appears, however, that the interruption in power resulted in longer shutdowns of the consumer's operations than the actual time power was off. The Oil Mills company, as well as other industries, in general, have to pay employees during interruptions and a considerable loss of efficiency, therefore, resulted from the power failure.

Following the hearing in these cases the commission's electrical engineering department obtained from the company a complete record of power interruptions occurring on the Imperial Valley system and made a study of these records and an investigation of the causes of service troubles and the entire matter and has made its report with certain recommendations.

The larger part of the power supplied to consumers of Holton power company is generated by Southern Sierras Power Company in its hydro-electric plant in Inyo County and transmitted to San Bernardino over a 240-mile steel-tower transmission line, where an auxiliary steam plant of 8,000 kilowatts capacity is installed and where Southern Sierras Power Company distributes energy. Near San Bernardino an interconnection is made with Southern California Edison Company whereby an added supply of 5,000 kilowatts is obtained in case of emergency. From San Bernardino a 55,000-volt transmission pole line extends via Banning through the Coachella Valley to El Centro, approximately 200 miles, to serve the Imperial Valley. That part of the line from San

Bernardino to Banning is owned by Southern Sierras Power Company and from Banning to El Centro by Coachella Valley Ice and Electric Company, which, in addition to serving Imperial Valley and Yuma, Arizona, distributes in the main Coachella Valley for irrigation and industrial purposes.

The local plants are only capable of supplying the main portion of the lighting service in the valley and in case of transmission line interruption the power service has to be discontinued. In case the local plants can not supply the total lighting load the service to the various cities is rotated and the company tries to treat all communities alike.

The records of the three companies involved in the service to Imperial Valley show that in 1916 there were a total of 132 interruptions to the electric service at Calexico which caused interruption to all service aggregating approximately 54 hours. During the same year there were 89 interruptions of service on the transmission line, aggregating 273 hours. This latter represents more nearly the total interruptions to power service owing to the small capacity of the local plants. There were only 76 interruptions lasting more than two minutes.

During the first ten months of 1917 the interruptions to all service in Calexico totalled 161 in number and 104 hours in aggregate duration. Transmission line interruptions numbered 85 with 118 hours duration.

The records of interruptions in Brawley show that the service interruptions were practically the same in number and extent. This is readily expected as most of the causes of interruption were on the transmission line.

The longer period of transmission line interruptions in 1916 was due to one interruption of 119 hours and 52 minutes caused by storm and washing out of the line.

The following summary of causes of the interruptions in 1917 shows in general the divisions of causes and their importance.

*Interruption to All Service in Calexico, First Ten Months, 1917.*

	Number	Duration	
		Hours	Minutes
(a) Voluntary interruptions for repairs.....	19	19	30
(b) Lightning storms.....	8	0	9½
(c) Failure of insulators and pole tops.....	47	57	23
(d) Interruption due to Edison company system.....	7	1	10½
(e) Wind and rain storms.....	25	6	14½
(f) Not segregated.....	55	19	54
	161	104	21½
Interruptions to service on transmission line:			
(a) Caused by local distribution system.....	11	0	11
(b) Caused by transmission line.....	36	108	40
(c) Caused by interruptions on Southern Sierras power company and Edison company's systems.....	38	9	21
	85	118	12

From the above table it will appear that approximately 50 per cent of the number of interruptions to electric service at Calexico are due to failure of the transmission line from San Bernardino to El Centro and that these interruptions caused in 1917 over 95 per cent of the total interruption to power service and 50 per cent of the interruption to all service in Calexico.

The conclusion of the commission's engineers is that the main cause of interruptions is due to insulator failure and the burning of pole tops on the transmission line. The transmission line extends through desert country almost throughout its entire length and due to the severe climatic conditions and the dryness of poles this trouble has been very serious. Interruptions from pole top burning or insulator failure on the transmission line have generally caused interruptions of the power service for several hours due to difficulty of locating the trouble and getting men and material so that repairs can be made.

The report of the commission's electrical engineering department sets forth four methods by which the service in the valley can be materially improved and lists them as follows:

- (1) Complete overhauling of the 55-kilovolt transmission line with a view to eliminating all of the present sources of trouble.
- (2) The building of a duplicate transmission line, preferably following a different route to the valley.
- (3) Installation of a steam plant at El Centro of a sufficient capacity to handle peak load.
- (4) Installation of a hydroelectric plant near the Imperial Valley.

The report states that the last three methods would, undoubtedly, very materially improve the service, as they would furnish a complete duplicate source of power sufficient to supply the demands of the valley. Any one of these methods, however, would require a very large investment on the part of the utilities. To extend a second transmission line to the valley would require an expenditure of from \$400,000.00 to \$500,000.00. To install a steam plant to insure continuity of service would require at least a 4,000-kilowatt plant, costing approximately \$400,000.00 under present price conditions, and in addition, would result in increased operating expenses. It is reported also that it is difficult to operate steam plants satisfactorily in the valley due to the water supply. The reports state that there is little possibility of any economical hydroelectric development near Imperial Valley.

Under the present war conditions the utilities are having great difficulty in obtaining money for new developments and especially for construction which will not result in material increase in revenue. It is also very difficult to obtain material and equipment and this condition would prevent any immediate relief from these methods. Any one of the methods would increase the cost of serving the valley a minimum of

\$75,000.00 per year. I question even under normal conditions whether this would be justified at the present time or until a material increase in business has resulted. The rates in the valley are apparently about as high as the consumers, questioned at the hearing, believed they would be willing to pay. If possible, therefore, less expensive means should be sought at this time to reduce the interruptions to service as far as possible.

As regards improvement in the present transmission line, the defendants, Southern Sierras Power Company and Coachella Valley Ice and Electric Company, report that they are at present short-circuiting the insulator pins on each pole of the 55,000-volt transmission line. It is the opinion of the companies and the commission's engineers that this, when completed, will greatly reduce the number and extent of service interruption.

The commission's engineering department reports also that the defendants are having inspections of and adjustments made to their various automatic switches and that plans are now in progress and equipment ordered for the installation of transformers at San Bernardino and changes in the operation of the present transmission line, which will further benefit the service conditions in Imperial Valley.

It is the opinion of the engineers of the commission that with the completion of the short-circuiting of the insulator pins above referred to, which should be made in 90 days, more than 60 per cent of the interruptions will be eliminated.

The evidence shows that only one electric power line extends from El Centro to Brawley and that this one line has resulted in some additional interruptions to service in Brawley in excess of those occurring at Calexico where at present two separate circuits have been constructed from the main substation at El Centro, thus making interruption of service at Calexico, due to the failure of the local distribution lines very improbable.

The commission's engineers report that defendants have a substation installed at Calipatria, approximately 12 miles north of Brawley, and that it would be advisable to construct a secondary transmission line from Calipatria to Brawley thus supplying duplicate power circuits into Brawley, which would reduce the number of interruptions to service at Brawley and also reduce the effect in the entire valley of failures upon the main transmission line from El Centro to Calipatria and would make possible the repairing of the main transmission line south of Calipatria without completely interrupting the service in Imperial Valley.

A 300-kilowatt generator in the lower hydroelectric plant at Holtville is not of use there and could be installed in the present steam plant at small expense, and would increase that plant's capacity 150 kilowatts. Holton Light and Power Company should transfer its 300-kilowatt

electric generator at the hydroelectric plant at Holtville to the steam plant at El Centro, thus increasing the local stand-by plants to at least 800 kilowatts maximum capacity.

I believe that under the conditions existing defendants should not be required to install duplicate facilities for serving Imperial Valley although they should make necessary investigation and plans for future developments in order to be prepared to take care of the rapidly growing demands for power.

#### ORDER.

Cities of Calexico and Brawley, having filed their complaints against the Southern Sierras Power Company and Holton Light and Power Company, alleging that the electric service of the Holton Light and Power Company is subject to numerous and extended interruptions and Coachella Valley Ice and Electric Company having requested to be made a defendant in the complaint, and hearings having been held and the requested reports having been submitted and the matter now being ready for decision,

The Railroad Commission hereby finds as a fact:

(1) That the service heretofore rendered by defendants has not been satisfactory owing to many interruptions to said service.

(2) That certain improvements should be made by defendants in the systems serving Calexico and Brawley.

Basing its order on the above finding of fact and each finding of fact set forth in the opinion preceding this order,

*It is hereby ordered that*

(1) Southern Sierras Power Company shall complete within ninety days from the date of this order the short-circuiting, in the manner now being followed, of insulator pins on the main transmission line from San Bernardino to Banning.

(2) Coachella Valley Ice and Electric Company shall complete within ninety days from the date of this order the short-circuiting, in the manner now being followed, of insulator pins on the main transmission line from Banning to El Centro.

(3) Holton Light and Power Company shall, within ninety days of the date of this order, increase its El Centro steam plant capacity to at least 300 kilowatts.

(4) Holton Light and Power Company shall, by July 1, 1918, complete the constructing of a secondary transmission line from its substation at Calipatria to the city of Brawley.

(5) Southern Sierras Power Company, Coachella Valley Ice and Electric Company and Holton Light and Power Company shall keep and submit to the commission monthly records for the year 1918 of the interruption to electric service in the Imperial Valley.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of February, 1918.

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DECISION No. 5121.

IN THE MATTER OF THE APPLICATION OF NORTHERN CALIFORNIA POWER COMPANY, CONSOLIDATED, FOR AN INVESTIGATION BY THE COMMISSION OF THE INCREASED COST TO APPLICANT OF SERVING GAS TO THE INHABITANTS OF REDDING, RED BLUFF AND WILLOWS, AND THE FIXING OF SUCH INCREASED SCHEDULE OF RATES AS SUCH INVESTIGATION MAY SHOW IS WARRANTED.

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Application No. 3326.

*Decided February 7, 1918.*

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Abnormal increases in the cost of operation of all public utilities due to present conditions should not be placed entirely upon the consumer through increases in rates, but should be partially shared by the utilities themselves. Increase in present schedule of rates granted though not to such an extent that all increases in cost of operation are taken care of. Schedule established to become effective at next meter reading: First 500 cubic feet or less, per month, \$1.00; next 4,500 cubic feet, \$1.70 per thousand; next 10,000 cubic feet, \$1.45 per thousand; over 15,000 cubic feet, per month, \$1.20 per thousand.

*Edward Whaley*, for Applicant.

*W. D. Tillotson*, city attorney, for the city of Redding.

BY THE COMMISSION.

**OPINION.**

Northern California Power Company, Consolidated, asks the commission to investigate the increased cost to it of manufacturing and selling artificial gas in Redding, in Shasta County, Red Bluff, in Tehama County, and Willows, in Glenn County, and establish such increased rates as will reimburse it therefor.

Public hearings upon the application were held by Examiner Westover in Redding, Red Bluff and Willows on January 10, 1918.

Applicant's present rates are:

- First 5,000 cubic feet of gas consumed per month, \$1.50 per thousand cubic feet.
- Next 10,000 cubic feet of gas consumed per month, \$1.25 per thousand cubic feet.
- All over 15,000 cubic feet of gas consumed per month, \$1.00 per thousand cubic feet.
- Minimum charge, \$1.00 per month per meter.

These rates were established by Decision No. 3624, rendered September 1, 1916. (See Volume XI, Opinions and Orders of the Railroad Commission of California, p. 37.)

The rates were based on a cost of oil of \$1.01 per barrel f.o.b. Redding, Red Bluff and Willows. On January 1, 1917, the cost of oil to applicant was increased to \$1.29 per barrel f.o.b. Willows and \$1.34 f.o.b. Redding and Red Bluff, which prices continued throughout the year 1917 under contract. Under a new contract for all of its 1918 requirements, applicant is compelled to pay for oil per barrel \$1.81 f.o.b. Willows and \$1.915 f.o.b. Redding and Red Bluff.

The application states that since the present rates have been established there have been marked increases in the cost to applicant of all materials and supplies, but that it is not applicant's intention to ask any increase in the rate of return upon its gas business over that which it was receiving at the time Decision No. 3624 was rendered. Applicant asks for only such increase as will reimburse it for actual increases in the cost of rendering service. This position was reaffirmed by its officers at the hearing. The rates established by the order herein are calculated to effect approximately this result.

The following table shows the fair value of the necessary operative gas properties of the applicant as of November 30, 1917, being made up of the value as of September 30, 1915, as determined by Decision No. 3624, to which have been added net additions and betterments since that time, as shown by applicant's Exhibit "A," introduced in evidence herein.

TABLE I.

*Fair Value of Necessary Operative Gas Properties of Northern California Power Company, Consolidated.*

	Redding	Red Bluff	Willows	Total
Operative gas property, as of September 30, 1915 .....	\$63,491	\$62,100	\$65,539	\$191,130
Additions and betterments, September 30, 1915, to November 30, 1917.....	1,169	10,277	1,343	12,789
Total necessary operative property, as of November 30, 1917.....	\$64,660	\$72,377	\$66,882	\$203,919

The additions to capital in Red Bluff represent principally the installation of new and larger generator and gas holder equipment.

An analysis of the statement of operating expenses for the eleven months ending November 30, 1917, which is also set forth in said



Exhibit "A" shows the cost of the various items of material and labor to have been as follows:

TABLE II.

*Operating Expenses of the Gas Department of the Northern California Power Company, Consolidated, for Eleven Months Ending November 30, 1917.*

	Redding	Red Bluff	Willows
Operating expenses, including labor, material and power, but excluding oil.....	\$2,527 51	\$2,836 32	\$3,097 48
Oil .....	3,537 89	2,793 59	3,861 38
Maintenance, including labor and material.....	1,064 03	467 14	806 12
Commercial and general expense.....	1,127 32	1,321 56	1,252 82
Taxes .....	564 20	507 56	636 73
Total expenses .....	\$8,820 95	\$7,926 17	\$9,654 53
Gross revenue, same period.....	12,041 47	10,091 78	12,005 79
Net operating revenue available for depreciation and return.....	\$3,220 52	\$2,165 61	\$2,351 26

The relation of the cost of oil per thousand cubic feet of gas sold to other operating and maintenance expenses and taxes, is shown by the following table:

TABLE III.

*Expenses Per Thousand Cubic Feet of Gas Manufactured During the Year 1917 by the Northern California Power Company, Consolidated.*

	Redding	Red Bluff	Willows
Operating, maintenance and general expenses, exclusive of oil.....	61.0¢	74.6¢	57.5¢
Oil .....	45.7¢	45.1¢	43.0¢
Taxes .....	7.3¢	8.2¢	7.1¢

The above oil costs are in excess of those which prevailed when the present rates were established in the amount of 19.4 cents per thousand cubic feet sold at Redding, 15.5 cents per thousand cubic feet sold at Red Bluff, and 13.4 cents per thousand cubic feet sold at Willows. These costs are still further increased by 12.2 cents in Redding, 11.3 cents in Red Bluff, and 10.3 cents in Willows, under the new contract for oil during 1918.

The average depreciation annuity applicable to Northern California Power Company's gas properties, as determined by Decision No. 3624, was 2.39 per cent. Projecting the above earnings found by Table No. II, over a 12 month's period, instead of the 11 month's period, it appears that the return earned by Northern California Power Company upon the fair value of its necessary operative gas properties during the year 1917, was approximately as shown in the following Table IV:

TABLE IV.

*Net Return Earned by the Gas Department of the Northern California Power Company, Consolidated, During the Year 1917.*

	Redding	Red Bluff	Willows
Net operating revenue, 12-months period.....	\$3,512 70	\$2,370 48	\$2,555 87
Rate of return before deducting depreciation....	5.41%	3.28%	3.82%
Depreciation .....	2.39%	2.39%	2.39%
Net return .....	3.05%	.89%	1.43%

It appears from the above table that applicant did not earn a fair return from its property in any of the towns in question during 1917.

The commission, in considering this and other applications of this kind at the present time, recognizes the abnormal condition under which public utilities are laboring, and seeks to afford such relief as is fair and reasonable. However, utilities should certainly not expect the public to bear all of the burden of the prevailing abnormally high prices due to war conditions, nor ask that they be permitted to earn the same returns that might reasonably be expected under normal conditions. Applicant herein recognizes this fact and states that it will be satisfied if permitted to increase its rates only to meet the increased cost of oil. It states that there has been a general increase in the cost of other materials and supplies used in the manufacture of gas, but it introduced no detailed evidence to show the amount of such increases.

It is not likely that higher rates than these established herein would result in greater revenue, because in the territory served, gas consumption might be reduced thereby on account of competition with wood and other fuels. We believe, however, that the increases authorized by this order are considerably less proportionately than the recent increases in the cost of wood and other fuels shown by the evidence in this matter. If the quantity of gas sold equals the consumption of 1917, the rates herein established will result in considerably less than a normal fair return to applicant. The schedule has been submitted to applicant for consideration, and recognizing existing unavoidable limitations it has stated that it will be put into effect without contest.

#### ORDER.

Northern California Power Company, Consolidated, having applied to the Railroad Commission for authority to increase rates for gas served in Redding, Red Bluff and Willows, and public hearings having been held thereon, the matter having been submitted and being now ready for decision,

The Railroad Commission hereby finds that the rates charged by Northern California Power Company, Consolidated, for gas served to its patrons in Redding, Red Bluff and Willows are unjust and unreasonable in so far as they differ from the rates and charges herein established,

and that the rates and charges herein established are just and reasonable rates and charges, under existing conditions.

Basing its order on the foregoing findings of fact, and on each statement of fact contained in the opinion preceding this order,

*It is hereby ordered* that Northern California Power Company, Consolidated, be and it is hereby authorized to establish and file with the Railroad Commission within ten days from the date of this order the following rates for artificial gas furnished or to be furnished in the cities of Redding, Red Bluff and Willows:

*Rates for Artificial Gas Applicable to all Classes of Consumers.*

First 500 cubic feet or less of gas consumed per month, \$1.00.

Next 1,500 cubic feet of gas consumed per month, \$1.70 per thousand cubic feet.

Next 10,000 cubic feet of gas consumed per month, \$1.15 per thousand cubic feet.

All over 15,000 cubic feet of gas consumed per month, \$1.20 per thousand cubic feet.

These rates shall become effective upon the next regular meter reading date subsequent to their filing with the Railroad Commission, and shall apply to all gas consumed during the period covered by said meter reading.

Dated at San Francisco, California, this seventh day of February, 1918.

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DECISION No. 5123.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR PERMISSION TO PURCHASE AND ACQUIRE, AND OF THE DEL MAR WATER, LIGHT AND POWER COMPANY FOR PERMISSION TO TRANSFER AND CONVEY TO SAID SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY ALL OF ITS ELECTRIC DISTRIBUTING SYSTEM IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

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Application No. 3463.

*Decided February 9, 1918.*

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In authorizing the transfer of the properties of one electric utility to another, the commission will not permit the inclusion in the agreement of sale a proviso to the effect that the purchasing company shall grant, to a land company owning the utility transferred, a free or preferential rate service. All service is required to be charged for at the regular uniform rates on file.

Del Mar company authorized to transfer, for the sum of \$11,035.70, its electric distributing properties in the county of San Diego to the San Diego company, the latter to establish throughout such acquired system its regular schedule of rates as filed with the commission for its northern district.

*Chickering & Gregory*, by *Allan Chickering*, for Applicants.

THELEN, *Commissioner*.

**OPINION.**

Del Mar Water, Light and Power Company asks authority to sell for \$11,035.70 its electric distributing system described in Exhibit "A,"

attached to the petition herein, to San Diego Consolidated Gas and Electric Company. The purchasing company joins in the petition.

Del Mar Water, Light and Power Company was incorporated on or about February 5, 1908. The company reports \$100,000.00 of stock outstanding. All of the outstanding stock, except shares necessary to qualify directors, is owned by the South Coast Land Company. In a letter of February 1, 1918, Mr. F. H. Tolle, secretary of Del Mar Water, Light and Power Company, advises the commission that all of the company's indebtedness, except accounts payable to San Diego Consolidated Gas and Electric Company, is payable to the South Coast Land Company; that the properties stand clear of any liens and that no creditors object to the sale of the electric distributing system. The petition herein in no way involves the sale of the water system of Del Mar Water, Light and Power Company.

It is proposed to sell and transfer the electric distributing system pursuant to the terms and conditions of an agreement of sale marked Exhibit "A" and attached to the petition herein. If the sale is completed, San Diego Consolidated Gas and Electric Company proposes to operate in Del Mar and vicinity under its San Diego County franchise. It will put into effect its rates applicable elsewhere in its northern district, with two exceptions. The agreement of sale provides that the purchasing company shall at all times hereafter deliver and furnish electric current to the selling company and to the South Coast Land Company at their various services as now established and in use in and about Del Mar and to the selling company at the now existing wells on the San Dieguito Ranch at the rate of two (2) cents per kilowatt hour subject to a 10 per cent discount for prompt payment of bills.

The purchasing company further agrees to furnish and deliver free of charge at all times hereafter until January 4, 1928, at the Ranch House and outbuildings situated near the wells on the San Dieguito Ranch sufficient electric current to supply thirty (30) sixteen (16) candlepower incandescent lights.

Mr. H. H. Jones, president of the San Diego Consolidated Gas and Electric Company stated that the two-cent rate to the selling company and the South Coast Land Company was the same as the rate now paid by the Del Mar Water, Light and Power Company for electric energy purchased under the contract of February 25, 1916; while in agreeing to furnish free service at the Ranch House on the San Dieguito Ranch, the company was merely attempting to carry out a contract of January 4, 1908, between the South Coast Land Company and the Santa Fe Land Improvement Company. The San Diego Consolidated Gas and Electric Company is now endeavoring to obtain a modification or an abrogation of the contract with the Santa Fe Land Improvement Company. I am of the opinion that the provision of the agreement of sale relative to the special rates, to which reference has been made, should

be eliminated and if the San Diego Consolidated Gas and Electric Company acquires the properties of Del Mar Water, Light and Power Company, it should apply to this territory the same rates as it offers to other consumers in its northern district.

Exhibit "1" of petitioners shows that the rates of the San Diego Consolidated Gas and Electric Company, applicable to its northern district, are materially lower than the rates now charged by the Del Mar Water, Light and Power Company. I find that the public interest will be served by the proposed transfer and recommend that the application be granted subject to the conditions of the order herein.

I herewith submit the following form of order:

#### ORDER.

Del Mar Water, Light and Power Company having applied for authority to sell its electric distributing system to San Diego Consolidated Gas and Electric Company, a public hearing having been held and the Railroad Commission finding that the public interests will be served by said sale,

*It is hereby ordered* that Del Mar Water, Light and Power Company be and the same is hereby authorized to sell to San Diego Consolidated Gas and Electric Company for \$11,035.70, or for such other price as the commission may hereafter authorize in a supplemental order, its electric distributing system described in Exhibit "A" attached to the petition herein upon the following conditions and not otherwise:

1. The rates to be charged by San Diego Consolidated Gas and Electric Company for electrical energy sold in Del Mar and vicinity shall be the same as those on file with the Railroad Commission and applicable to its northern district, it being understood that the agreement of sale marked Exhibit "A" and attached to the petition herein will be modified so as to be in accord with the rates now on file with the commission.

2. The price which San Diego Consolidated Gas and Electric Company is paying for the properties which are to be conveyed to it shall never be urged before the Railroad Commission or any other public authority as representing for rate-making or any other purpose a fair value of said property.

3. Within thirty days after the execution and delivery of the instruments of conveyance, San Diego Consolidated Gas and Electric Company shall file with the Railroad Commission a certified copy of the deed of conveyance.

4. The authority herein given to sell and transfer the properties shall apply only to such properties as may be sold or transferred on or before June 30, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this ninth day of February, 1918.

## DECISION No. 5124.

IN THE MATTER OF THE INVESTIGATION, ON THE COMMISSION'S OWN INITIATIVE, INTO THE SERVICE AND MAINTENANCE AND THE ECONOMIES OF OPERATION OF TRANSPORTATION COMPANIES IN CALIFORNIA DURING THE EMERGENCY CREATED BY THE WAR.

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Case No. 1177.

*Decided February 9, 1918.*

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In view of the present status of railway control a number of recommendations and suggestions made which it is directed be called to the attention of interested parties and the investigation continued for such further action as may appear desirable.

1. Labor Shortage: To obtain needed unskilled labor suggestion made that the federal government remove the entrance tax and suspend the literacy test so as to permit the importation of Mexican labor for track and farm work. It is held that the importation of Oriental labor is not necessary in view of the availability of Mexican labor. To obtain skilled labor, it is suggested that universities and technical schools establish courses in railroad shopwork which shall include practical training in railroad shops. Any action affecting employment to be taken only after a complete understanding with organized and unorganized workers affected.
2. Competition: Material efficiencies can not be affected under present competitive conditions of operation and the minor efficiencies which may be inaugurated under such conditions will not enable the railroads to meet the present emergency. No construction work on competitive lines should be carried out unless so far progressed that stoppage would entail a considerable loss, instead, the joint use of existing facilities should be carried out as far as possible.
3. Priority: All matters of priority and transportation orders issued by various government boards should be handed to the railroads through one central bureau so that the roads will not be left to their own resources in determining who shall be served first.
4. Cross-hauls: Steps should be taken to do away with all unnecessary cross-hauls of commodities, freight should be routed over the shortest and most efficient line and, so far as possible, localities should be supplied with various commodities from the nearest source.
5. Franchise Requirements: State, county and city governmental authorities not to require utilities, during the present emergency, to live up to franchise requirements which call for improvements, street work, etc., that is not absolutely necessary in the operation of the public utility affected, also that all public improvements not necessary in the prosecution of the war be deferred so that the labor and materials may be available for railroads or other necessary war work.
6. Supplies: The establishment of a priority by the federal government as between requirements of railroads of the United States and orders for foreign governments and industries in this and other countries.
7. Reconsignment: The suspension of reconsignment privileges on all commodities with the exception of perishable products and the reduction of such privileges on perishable products to a minimum.
8. Team Tracks: All existing team tracks to be used jointly by any carrier which is able to reach them so as to eliminate, so far as possible, freight congestion at terminals.

9. Short Haul Freight: All short haul freight, particularly less than car load shipments, to be handled by inland water transportation companies, interurban electric lines and motor trucks so as to relieve interstate carriers and permit the release of their equipment for longer movements, also the cooperation at all freight terminals between steam railroads and local electric lines.

10. Advertising: The considerable expense incurred continuously by railroads in advertising and soliciting for business could be materially reduced without any impairment of the efficiency and convenience of the transportation service.

It is held that irrespective of whether or not the situation in the West is as acute as in the East, steps should be taken to cooperate as fully as possible, and that the only manner in which the present emergency may be met is through unification, accordingly recommendation made that the Western railroads appoint a committee to study and make recommendations looking to the complete unification and elimination of all merely competitive activities.

*C. A. Curtis*, for the California Western Railroad Company.

*C. W. Durbrow*, for Southern Pacific Company.

*H. C. Nutt* and *A. S. Halsted*, for Los Angeles and Salt Lake Railroad Company.

*Clarence M. Oddie*, secretary and counsel for the Western Association of Short Line Railroads; Arcata and Mad River Railroad; Bay Point and Clayton Railroad; California Western Railroad and Navigation Company; Cement, Tolenas and Tidewater Railway Company; Holton Interurban Railway; Lake Tahoe Railway and Transportation Company; McCloud River Railroad Company; Ocean Shore Railroad Company; Pajaro Valley Consolidated Railroad Company; Riverside, Rialto & Pacific Railway Company; San Joaquin & Eastern Railroad Company; San Diego and Southeastern Railway Company; Sierra Railroad Company of California; Stockton Terminal and Eastern Railroad Company; Trona Railway Company; Yreka Railroad Company; Yosemite Valley Railroad; Glendale & Montrose Railway Company.

*W. S. Palmer*, for Northwestern Pacific Railroad Company.

*E. J. Mitchell*, for Oakland, Antioch and Eastern Railway.

*Frank Karr* and *Paul Shoup*, for Pacific Electric Railway.

*E. H. Maggard*, for Petaluma and Santa Rosa Railway Company.

*Sanborn & Rochl*, for California Transportation Company; California Navigation and Improvement Company; Sacramento Transportation Company; Farmers Transportation Company; the Nevada-California-Oregon Railway Company.

*M. J. Wright*, for Pacific Steamship Company.

*J. M. Sims*, for Pacific Coast Railway Company.

*M. L. Shannon*, for Santa Maria Valley Railway Company.

*A. J. Klampf*, for Trona Railway Company.

*F. E. Sharp*, for Visalia Electric Railway Company.

*G. J. Bradley*, for Merchants and Manufacturers Association of Sacramento.

*S. W. Russell*, for Consolidated Chambers of Commerce of Sacramento.

*Bishop & Bahler* by *H. M. Wade*, for certain shippers in San Francisco, Oakland, and Los Angeles.

*L. R. Bishop* and *H. M. Wade*, for Oakland Chamber of Commerce.

*A. Larssen*, for California Redwood Association; California Pine Box and Lumber Company, and other pine lumber operators; also as an individual.

*Allan P. Matthew*, for The Western Pacific Railroad Company and Tidewater Southern Railway Company.

*W. W. Cahill* and *W. W. Hinchman*, for Death Valley Railroad Company and Tonopah and Tidewater Railroad.

*D. M. Swobe*, for Sierra Railway of California and McCloud River Railroad Company.

*W. R. Alberger*, for San Francisco-Oakland Terminal Railways.

*G. L. Chamberlain*, for Camino, Placerville and Lake Tahoe Railroad Company.

*E. W. Camp* and *M. W. Reed*, for The Atchison, Topeka and Santa Fe Railway Company.

EDGERTON and LOVELAND, *Commissioners*.

#### STATEMENT.

This proceeding was instituted by the commission on its own initiative on November 28, 1917, and the hearings in the case were concluded on December 20, 1917.

On December 26, 1917 the President of the United States issued his proclamation dealing with the assumption of complete control over the railroad operation of the country by the federal government. With the issuance of that proclamation and the subsequent formation by the federal government of a new national transportation policy—the policy that is now being fixed into federal statute—the situation has changed radically. The chief causes leading to this investigation are now no longer operative. It therefore became a question with us whether this proceeding should be dismissed and no further report made to the commission or whether there were sufficient grounds to complete the writing of the opinion. We reached the conclusion that this report should be written.

It is not clear at this time what the useful function of this commission and similar state commissions will be in the new scheme of things, and being in complete sympathy with the policy announced by the President as a war measure we feel strongly that all activities and functions interfering with the full accomplishment of the President's purpose, from whatever source such interference might come, must be swept aside.

The investigation, however, has developed facts of importance bearing on this issue, and suggestions have been made by witnesses and by



the commission's staff which, in our opinion, will be of value in the efforts to bring the country's transportation machine to the highest point of efficiency. We believe that in the operation of the California railroads the federal government will be facing the same situation as the carriers are now facing and that the difficulties must be understood before they can be remedied.

Having in mind the announced purpose of the investigation, that the commission wished

“to ascertain the facts as to the present condition of transportation in California and, if the facts disclosed that transportation is not adequate or efficient, to determine what the cause of such inadequacy may be, and either to suggest or order remedies.”

we are making such recommendations, suggestions and observations with the knowledge that such approval, disapproval or modification thereof will be made as in the judgment of the Director General of Railroads may be deemed expedient or desirable.

#### OPINION.

##### *Purpose of investigation.*

During the last five years at least the railway situation of the United States has become increasingly difficult, and the inadequacy of the available railway facilities to handle the volume of traffic of the country has become generally recognized as beyond question.

Since the outbreak of the war in Europe, the strain upon the transportation system has steadily increased. In April of last year, when our country was drawn into the conflict, the demand upon the railways was unprecedented. With the country at war it became immediately apparent that not only would there be a still greater demand upon the carriers but that the railways would form one of the most important factors in the national defense. This was recognized by the President of the United States when he appointed a National Council of Defense for the purpose of ascertaining the resources of the country and securing the cooperation of all organized transportation and industrial activities in furtherance of this purpose.

The executive heads of the railroads responded to the emergency when, at a meeting in Washington on April 11, 1917, they adopted this resolution:

“*Resolved*, That the railroads of the United States, acting through their chief executive officers here and now assembled, and stirred by a high sense of their opportunity to be of the greatest service to their country in the present national crisis, do hereby pledge themselves with the government of the United States, with the governments of the several states, and with one another, that during the present war they will coordinate their operations in a continental railway system, merging during such period all their

merely individual and competitive activities in the effort to produce a maximum of national transportation efficiency. To this end they hereby agree to create an organization which shall have general authority to formulate in detail and from time to time a policy of operation of all or any of the railways, which policy, when and as announced by such temporary organization, shall be accepted and earnestly made effective by the several managements of the individual railroad companies here represented."

This resolution, we believe, must be considered as one of the important documents in American railroad history; for the first time the executive heads of the railroads give voice to their realization that the highest national transportation efficiency can be attained only through the unified operation of a continental railway system.

It is common knowledge now how, as a result of the resolution just quoted, the "Railroads' War Board" was organized and how the board set itself to the task of improving the national transportation efficiency. Among other steps taken the board in July, 1917, addressed the state public service commissions urging cooperation with the railroads in a suspension, during the war, of "all efforts not designed to help directly in winning the war." The letter in part says:

"Therefore this committee earnestly recommends that during the war the railroads be required by the public authorities to make improvements and carry out projects involving the expenditure of money and labor only when they are absolutely essential for war purposes or public safety. The prevailing high interest rate on money, the difficulty of raising money in competition with the tax free issues of the government, the excessive cost of supplies and labor, the delay in obtaining material, the possible blockade of traffic and the diversion of labor all contribute to make non-essential construction undesirable during the war.

"The committee considers that the erection of new stations, elimination of grade crossings, are among the nonessential improvements which should be deferred at this time. We respectfully suggest that the basis for consideration of new projects at this time should be the increase in the capacity of the carriers for national service.

"Furthermore, we urge your cooperation in eliminating all passenger service which is merely convenient and not justified by public necessity during the present emergency situation."

This commission expressed itself as being in complete sympathy with the suggestion and took action accordingly, that the test for new projects, and indeed for all expenditures, should be the effect on the capacity of the carriers for increased national service.

As the months passed, however, it became increasingly clear to us that as far as the railroads in California were concerned, the pledge given in the Railroads' War Board resolution remained largely on paper and,

in its essence, was not translated into action. There was no evidence of any steps being taken, nor even of any general preliminary survey being made, by the principal carriers operating in this state to "coordinate operations in a continental railway system, merging during such period all their merely individual and competitive activities." The competitive system with all its consequences on the carriers and on the public remained in full force in California.

This commission, of course, was aware that transportation conditions in the East were more serious than in the West, and that it was on the Atlantic seaboard rather than on the western coast where the war transportation activities concentrated and congested. It did not seem right to us, however, that the West should insist, even if it were possible, on running its transportation machine on a pre-war and normal course and regardless of the needs of the East when, perhaps, by taking stock of our transportation resources and by some sacrifice we might help where help was needed.

Meantime, it was evident also in this state that railroad transportation was not normal. Informal complaints came in increasing numbers to the commission asking our assistance in securing cars and more prompt service. We were informed that the condition of the roadway and track of the carriers in the state was deteriorating because of the acute shortage of unskilled labor, and that the coming rainy season would aggravate this condition. We heard that safety standards of track and equipment were permitted to relax and that operations on some roads during the winter were bound to be unsatisfactory, if not dangerous. The commission understood that certain carriers intended to curtail their passenger service, and in one instance at least it was proposed to abandon a portion of the line.

These reasons, together with the general unrest prevailing in the public mind regarding the railroad situation, prompted the commission to institute this investigation.

#### *Scope and method of investigation.*

It was our purpose to confine the inquiry to California and to California conditions. The effect, however, of these conditions on the national transportation problem will, if possible, be ascertained. Notice of the hearing was sent to all steam and electric interurban railways as well as to all water carriers under the jurisdiction of the commission, ordering these utilities to appear and show cause why the commission should not make this investigation. No good cause appearing to the contrary, the commission stated that it would proceed with the investigation to the end that it would thereafter make such order or orders as might seem just and reasonable. So that the commission might pro-

ceed on the basis of fact, letters of inquiry were sent, prior to the hearing, to—

- (a) The general managers of all steam railroads operating in California.
- (b) The general managers of all electric interurban railroads operating in California.
- (c) The managers of all water carriers operating in California.
- (d) The principal commercial and traffic organizations in California.

Letters of notification of the hearing, stating the general purpose of the investigation, in addition to the organizations mentioned under (d) were sent to—

- (e) The Governor of this state (William D. Stephens).
- (f) State Market Director (Harris Weinstock).
- (g) Hoover's Food Control Board (Ralph P. Merritt).
- (h) State Council of Defense (A. H. Naftzger, Chairman Executive Committee).
- (i) Federal Fuel Director (Albert Schwabacher).
- (j) War Committee of the National Association of Railway and Utilities Commissioners (Max Thelen, Chairman).
- (k) Priority Board (R. S. Lovett).
- (l) Railroads' War Board (Fairfax Harrison, Chairman).
- (m) Commission on Car Service of the American Railway Association (C. M. Sheaffer, Chairman).
- (n) Interstate Commerce Commission (Henry Clay Hall, Chairman).

All these parties either took part in the hearings or responded by correspondence. A series of questions was addressed to the transportation companies mentioned under (a), (b), and (c), those to the steam roads being typical. The scope of the investigation is indicated by these questions, and the answers received from the various carriers and other parties to the proceeding show transportation conditions in this state. The questions to the steam railroads were as follows:

**A—Relative to the condition of roadbed and track.**

- (1) The number of section men and other unskilled laborers employed by your road on November 15, 1916, and the same information for the same, or approximately the same, date for 1915.
- (2) The number of men employed on the same date in 1917.
- (3) The number of men you were short, as of the last date, to carry on your track and other work for which unskilled laborers are employed.

(4) The number of derailments and other train accidents, both passenger and freight, from all causes, and, separately, the number of train accidents caused by failure of track and equipment.

NOTE.—If accurate figures have not been worked up for items 1 to 4, inclusive, close approximation will answer the purpose.

(5) Statement showing expenditures incurred in the state of California for maintenance of roadway and structures, by accounts, for the nine months ending September 30, 1917; with like and comparative figures for the same nine months in the years 1915 and 1916.

(6) The commission requests that you give it the benefit of any suggestions you may have tending to alleviate conditions due to the present labor shortage, as far as track labor is concerned, either by cooperation between the railroads, by action of the Government, or by any other means.

**B—Relative to the condition of equipment:**

(7) The number of skilled employees in your engine and car repairing forces on or about November 15, 1916; and the same information for the same date in 1915.

(8) The number of skilled employees employed at the same time in 1917.

(9) The number of skilled employees you were short, as of the last date, to carry on your shop and repair work, for which skilled labor is employed.

(10) Statement of expenditures incurred in the state of California for maintenance of equipment, separately by accounts, for the nine months ending September 30, 1917; with like and comparative figures for the same nine months in the years 1915 and 1916.

NOTE.—If accurate figures have not been worked up, close approximation will answer the purpose with reference to items 7 to 10, inclusive.

(11) The commission requests your suggestions with reference to the labor shortage, so far as skilled labor is concerned.

(12) The number of engine failures in months of September, October, and November, 1917, as compared with the same months of the last two preceding years.

(13) The number of engines shopped for ordinary repairs during September, October, and November, 1917; and the same information for the same period in the two preceding years.

(14) Same data regarding complete or back-shop overhauling.

(15) The number of bad-order freight cars out of service during the months of September, October, and November, 1917, as compared with the same months of the two preceding years.

**C—Relative to freight and passenger service:**

(16) Gross freight ton mileage for September, October, and November, 1917, as compared with the same information for the same months of the two preceding years.

(17) Passenger train mileage for the same periods as in preceding question.

(18) Comparative earnings per train mile, by months, for the last two years, of the following trains, both directions:

*For Southern Pacific:*

- |                       |                     |
|-----------------------|---------------------|
| (a) Overland Limited. | (f) Fresno Flyer.   |
| (b) Sunset Limited.   | (g) El Dorado.      |
| (c) Shasta Limited.   | (h) Statesman.      |
| (d) Lark.             | (i) Stockton Flyer. |
| (e) Owl.              |                     |

*For Santa Fe:*

- |                         |                 |
|-------------------------|-----------------|
| (a) California Limited. | (d) Angel.      |
| (b) Santa Fe De Luxe.   | (e) Navajo.     |
| (c) Saint.              | (f) Missionary. |

*For Western Pacific:*

Trains Nos. 1, 2, 3, and 4.

*For Los Angeles and Salt Lake:*

Los Angeles Limited.

NOTE.—This question need not be answered by other roads.

In addition to the information required under 16 to 18, inclusive, the commission requests your answers and a detailed statement of your suggestions on the following questions:

(19) To what extent is it practicable to discontinue nonessential passenger train service?

(20) To what extent is it practicable to eliminate special equipment on passenger trains where such equipment can be dispensed with without serious interference with adequate service (dining, buffet, and parlor cars, and other equipment necessitating helper engines over maximum grades)?

(21) To what extent is a reduction in local freight service practicable by less frequent schedules or alternate schedules to competitive points?

(22) Can any economies be effected by a suspension of interyard switching? (Give your suggestions in detail.)

(23) Can any economies be effected by a reduction in branch line service?

NOTE.—In answering questions 19 to 23, inclusive, please base your suggestions on concrete proposals.

(24) Should the interstate demurrage rules be adopted for intrastate business, eliminating free time on account of inclement weather? And, in your opinion, to what extent would this rule relieve car shortage?

(25) Why should not embargo be placed on all commercial export freight destined to Pacific ports, unless vessel space has been contracted for and is known to be available, permitting of a release of cars at seaboard terminals?

(26) Give detailed outline of your method of car distribution and what official supervision is in effect on your lines to secure maximum efficiency.

(27) Can any economies be effected by a suspension or a reduction of reconsignment privileges? And what should be the maximum number of reconsignments allowed?

(28) Should shippers and receivers of freight be required to accept carloads on the team tracks of any carrier at destination? (Under present rules, team tracks of one railroad can not be used for loading and unloading cars moving by a competing line. This rule might be abrogated, and where congestion exists on the team tracks of one carrier arrangement could be made for the handling of excess cars on the team tracks of competing lines.)

(29) What is the labor situation as regards freight handling at terminals and at transfer points?

(30) Have you lengthened the age limit of employees, now almost universally 25 years for inexperienced and 45 years for experienced men?

**D—Capital and other expenditures:**

(31) Furnish statement of expenditures for additions and betterments and new capital expenditures in this state for the last two years, with a short description of purpose of expenditures; also, an estimate of such expenditures for 1918.

*For Southern Pacific and Santa Fe:*

Give such expenditures only as exceed \$2,500.00 for any one item.

*For Western Pacific and Los Angeles and Salt Lake:*

Give such expenditures only as exceed \$1,000.00 for any one item.

*For all other roads:*

Give such expenditures only as exceed \$500.00 for any one item.

(32) Furnish statement of cost of soliciting business, both passenger and freight, segregated into items according to accounts, by months, for the last three years.

A similar series of questions was addressed to the electric interurban railroads, which carriers were in addition asked to give an answer to the following question:

Are you equipped to handle additional local freight business between points reached by your line? If so, to what extent?

The water carriers were also addressed and asked to furnish information applicable to water transportation service.

Answers to these questions were received from the majority of the carriers addressed. These answers have now been tabulated for the principal steam and electric roads and will hereafter appear in Table I. The replies from the smaller carriers not listed in Table I have also been considered by us and in reaching our conclusions we have given them such weight as seems desirable.

Hearings were held in San Francisco on December 14, 15, 18, 19, and 20. There were represented thirty-three steam railroads, five electric railroads, five water carriers and, in addition, seven chambers of commerce and other commercial organizations. Several of the federal and state branches of the government who had been invited to appear were also represented.

In addition to the items considered in the letters of inquiry sent to the various carriers, other features of the transportation problem were gone into, as follows:

- (a) The present status of control of the carriers.
- (b) Problems of priority.
- (c) The labor situation.
- (d) Possibility of closer relationship between steam and electric roads, both urban and interurban.
- (e) Possibility of closer cooperation between steam lines and inland waterways.
- (f) Use of motor truck to relieve freight congestion.
- (g) Interrelationship between our local problem and the national transportation problem.

### *Conditions in California.*

In a discussion of the testimony and the evidence in this case it will be desirable to follow the division indicated in the letters of inquiry sent to the carriers.

#### **A—Relative to the Condition of Roadbed and Track.**

Taking the important California interstate lines as a whole (Southern Pacific, Santa Fe, Western Pacific, and Salt Lake), it may be stated that the record establishes the fact that all the roads mentioned, including the Northwestern Pacific, are suffering from an acute shortage of unskilled labor, especially track labor, and that as a consequence the permanent ways of these roads are not up to the usual standards of maintenance and are rapidly getting worse. This general statement is clearly borne out by the answers to questions 1 to 5, inclusive, as they appear in Table I, and by the statements of the witnesses of the various lines. From the exhibits introduced the following figures bearing on the shortage of track labor are taken:

Railroad	Number of unskilled track men employed on Nov. 15, 1917	Number of men short on Nov. 15, 1917
Southern Pacific .....	5,401	2,700
Santa Fe .....	1,469	729
Western Pacific .....	889	341
Salt Lake .....	300	385
Northwestern Pacific .....	285	175

In other words, the Southern Pacific was one-third short of its necessary track force; the Santa Fe also was one-third short; the Western Pacific was two-fifths short; and the Salt Lake and the Northwestern Pacific had considerably less than one-half their necessary forces. The same facts are equally well established by a comparison of the amounts expended in this year for the maintenance of way with those expended



in past years. In making such a comparison the fact must not be lost sight of that the cost of labor and materials has very largely increased. In order merely to hold their own the companies would have to spend much greater sums this year than in previous years, to say nothing of additional maintenance made necessary by the very largely increased volume of traffic that is being handled and by the generally acknowledged deterioration of labor efficiency. The figures, however, show that the amounts spent for track maintenance are considerably less than in former years. (See Table I.)

For the Southern Pacific this situation was even more startlingly brought out from a statement read into the record and the discussion that followed (Tr. pp. 68 to 72). In that statement, Maintenance of Way Engineer Titcomb of the Southern Pacific Company said:

"In other words, we are short 4,000 men, and for a rough figure we could say that their wages, including the material that they would utilize, would easily average \$4.00 per day per man. This would mean \$16,000.00 per day, which should now go into the track, or in the neighborhood of \$400,000.00 per month, or, for a period of twelve months, near five millions of dollars."

This is an extremely serious condition and has its direct effect on railway operation and efficiency in all its branches. The effect on safety is immediately apparent. The effect of the necessarily resulting reduction in speed of trains is apparent on freight traffic efficiency. As this condition is permitted to continue the bad effects increase in geometrical progression. The practically unanimous testimony on this subject left us doubtful that present railway control can cope with the situation.

Various remedies to relieve this situation were suggested by witnesses. Among the proposals made were the bringing in of Oriental labor from China and Japan; the equalization and stabilization of wages; the forced employment of idle men; and the urging of women labor into unskilled railway work. Several carriers were of the opinion that it would be necessary to draft railway labor into the military service.

There was complete unanimity as to the efficacy of one proposed remedy and one that appears to us a real solution of the unskilled labor problem, as far as this state, and probably other states along the Mexican border similarly situated, are concerned. It is suggested to permit the unhindered influx of Mexicans into the United States and, in order to accomplish this end, to ask the federal government to remove the entrance tax now imposed on Mexican labor coming into the United States; and also to suspend the literacy test, for this purpose.

We propose later in this opinion to summarize the remedies that to us seem feasible and worthy of consideration in order to better trans-

portation conditions, and will only state here that this suggestion with regard to Mexican labor deserves careful thought.

Another suggestion, to conserve the supply of unskilled labor, looked towards the stoppage of all public and public utility improvements that might interfere with the railroad labor supply and that are not absolutely essential at this time.

The president of the Northwestern Pacific Railroad Company testified as to an interesting experiment that his company had made with the contracting of ordinary maintenance work to a responsible railroad contractor. He pointed out that the difficulty with this method lay principally in the drawing up of proper standard specifications and the determination of proper cost units. Maintenance work done by a contractor might, however, have the advantage of a permanent and skilled contractor's organization—an advantage which would become apparent in greater efficiency of work done and would possibly offset higher unit costs. This suggestion we believe is one deserving of further study; and we believe that such a study can be advantageously made by this commission.

#### **B—Relative to the Condition of Equipment.**

In regard to the maintenance of equipment, the problem of skilled labor as contrasted with unskilled labor for track maintenance is important. Here the shortage in men is not so spectacular as in the case of the track forces. But it is of equal, and perhaps greater, significance since heavier duty is now imposed on equipment, especially motive power, than ever before. Such equipment should therefore be in better condition than ever before.

It is apparent that the labor question with skilled men is largely one of wages. No suggestions of any particular value were made regarding the possibility of relieving the shortage of skilled labor, except the general one that those men be exempt from the draft, and the suggestion of the general manager of the Salt Lake that the technical and manual training schools include shopwork, to be done in railroad shops, in their student courses. The last proposed remedy seems to us to be worthy of a trial, and we shall incorporate it in our recommendations.

Some slight assistance in alleviating the shortage of both skilled and unskilled labor can be had by extending the age limit of employment now in force on a number of carriers. By setting aside this age limit a considerable number of good men could be called into service. It appears, however, that in several cases the railroads have already done this.

#### **C—Relative to Freight and Passenger Service.**

It is in connection with the feature of the inquiry relating to freight and passenger service that the difficulties inherent in the competitive

system of railway operation become most apparent. The figures of gross freight ton mileage for the selected periods in the years 1915, 1916, and 1917 (see item 16, Table I) show the increased demands placed upon a deteriorating transportation machine. Taking the four important interstate roads and the Northwestern Pacific, the following figures were introduced in evidence:

*Gross Freight Ton Mileage—September, October and November.*

Railroad	1915	1916	1917
Southern Pacific .....	5,018,323,631	6,144,431,517	6,866,177,399
Santa Fe .....	875,618,872	1,038,672,636	1,204,366,549
Western Pacific .....	226,107,654	326,591,001	*259,578,815
Salt Lake .....	385,115,000	440,176,249	466,052,445
Northwestern Pacific .....	47,290,281	72,687,649	76,387,334

\*September and October only.

If similar figures for all the years were taken, this point would be brought out even more clearly.

While freight traffic shows a steady increase, passenger traffic for the same roads for the two years 1916 and 1917 has substantially remained on a level. We were of the opinion that a curtailment of all non-essential passenger train service would be an important item in the elimination of economic waste, and a step in the real unifying of the state's transportation.

Question 18 in the questionnaire given above was framed with that purpose in mind. The testimony of the general passenger agent of the Southern Pacific was emphatic that not only was curtailment of passenger train service out of the question, as far as the Southern Pacific lines were concerned, but that trains should be added rather than taken off. This witness was equally emphatic that competition in passenger train service by the different carriers should not be eliminated.

After consideration of the evidence and the exhibits introduced, we were unable to agree with such a contention. It is our opinion that, in compliance with the resolution of the Railroads' War Board studies should have been made by the interstate carriers of this state with the view to determining what is essential and what is nonessential in passenger train service.

Table II, attached to this opinion and showing earnings of certain California passenger trains, will be one indication of what direction such studies should take.

When it comes to proposals as to what can be done to enable the overtaxed transportation machine to handle its abnormal load, the suggestions readily fall into two classes:

First, measures looking to increased efficiency of transportation tools, such as maximum use of cars through maximum loading; maximum use of motive power through maximum trainloads; maximum output of car-days through tightening of demurrage rules and abolishing of certain demurrage, switching, industrial track, reconsignment, and other privileges which the shipper now enjoys; and increases of the rates to penalize practices objectionable to the railroads. Passenger and freight service are closely related in this connection. Measures like those mentioned are intended to increase the efficiency of tools of transportation independent of the general system. In other words, maximum car loading, utmost use of motive power, maximum efficiency of man power, is to be desired under any system of conducting transportation, and need not be influenced by competitive or noncompetitive fundamental conditions.

Second. The other class of remedies lies in the direction of complete unification and such doing away with merely competitive activities by the individual carriers as is recognized in the resolution of the Railroads' War Board heretofore quoted to interfere with transportation efficiency. The necessary remedies go directly to the inefficiency of our general transportation system, and are reflected in our questions 18 to 23, inclusive.

Where the efficiencies and savings resulting from measures in the first class can be made considerable, the improvements that could be brought out by freely using measures in the second class would be enormous. But our investigation seems to prove conclusively that under a competitive system, where each road is forced to consider its own earnings first and last, radical savings and efficiencies can not be had. It is not a question of willingness or unwillingness on the part of the carriers or of the regulating authorities, but it is rather the inevitable consequence of conditions as they are. The testimony in this investigation abundantly bears out these conclusions.

As a case in point, General Manager Nutt of the Salt Lake testified (Tr. pp. 103 to 105) what could be done by cooperation of competing lines in the matter of lengthening the passenger schedules of through trains between Chicago and Los Angeles. He said that if the time were lengthened from twelve to fifteen hours he could take off one or two of his main-line trains. Mr. Nutt said, however, "We could not do it unless the others did." Such an arrangement, he said, would release "about eighteen engines."

Later on, when this matter was taken up with the witnesses of the competing roads (Southern Pacific and Santa Fe), it developed that no joint study of this and similar problems had been undertaken by the interested companies. The two stronger competing lines objected, for

competitive reasons, to any change in transcontinental passenger schedules.

A similar condition became apparent in the question of export freight embargo to Pacific coast ports, when this was under discussion (Tr. pp. 363 to 366). In answer to a question as to whether an absolute embargo at Pacific ports would not result in relieving the present congestion, the general freight traffic manager for the Southern Pacific said, "We would be glad to see that done." Being further questioned he said that his road would follow any order dealing with this question "if somebody will issue it." And explaining why his company was unable to handle matters as they should like to handle them, gave as his reason, "We were not strong enough."

The following colloquy then took place:

COMMISSIONER EDGERTON: You say you are not strong enough. What do you mean by that?

MR. LUCE: I mean the different carriers would be appealed to that way, that the ship was already here for that freight and that if one carrier would not take it, the other would; and so they naturally caught us in that sort of position.

COMMISSIONER EDGERTON: Well, now, that illustrates exactly what I was getting at. Now, you have earnestly assured us that coordination had gone to the extent that it was necessary. Now, Mr. Luce pictures a situation whereby, if all the carriers would do this thing and stand together, it could be done, but that the Southern Pacific, for instance, could not do it alone, as he says.

The attorney for the Western Pacific, Mr. Matthew, upon invitation took part in this discussion and said (Tr. p. 367):

"I don't think there is anything to add. I am reluctant to express any opinion that seems to be even superficially at variance with Mr. Durbrow's reply to your Honors. I think I would have put the thing the other way around and said, 'As far as the present conditions are concerned, there has not been any great amount of coordination of the service for cooperation between the carriers, so far as facilities are concerned; at least, if there is any, it has not come to my knowledge. I take it we have all loyally undertaken to obey all instructions from the Railroads' War Board. I do not think there is anything more to be added than that'."

These quotations are made to illustrate the point. The evidence in this direction is not limited to these excerpts but runs through the entire testimony.

The testimony shows that a joint survey by the carriers with a view to determining what is practicable in the way of a more efficient rearrangement of a unified passenger service within the state had not been made; and that there was no intention on the part of the individual companies of getting together and making such a study.

The same testimony developed in the matter of a possible reduction in local freight service by less frequent schedules or alternate schedules to competitive points. The carriers do not intend to make any changes that might benefit the whole if these changes interfere with individual advantages. This is also true in the matter included in our question 23, as to what economies can be effected in a reduction of branch line service.

And as to what can be done by *real* unification of the physical properties of the various companies operating in California this question the carriers have not even asked themselves. There was unanimity on the part of the witnesses that unification to such an extent is, in spite of the Railroads' War Board, out of the question at this time. Several witnesses testified that not only is it out of the question but that it is not desirable.

We believe that the situation can be summarized by saying that major efficiencies and consequent savings are out of the question under the competitive system, and that the minor efficiencies that can be had will not affect conditions sufficiently to enable the railroads of the United States to cope with the war emergency.

#### D—Relative to Capital and Other Expenditures.

The branch of investigation dealing with capital and other expenditures confirms the general impression that large expenditures of new money are required for essential additions to the present facilities. In answer to our question 31, figures for additions and betterments in 1916 and 1917 and estimates for new work in 1918 were submitted. Again taking the totals for the principal roads we have these figures

*Capital Expenditures for Additions and Betterments.*

Railroad	1916	1917	Estimate for 1918
Southern Pacific -----	\$7,601,154	\$7,590,637	\$31,833,000
Santa Fe -----	2,525,035	2,618,351	8,249,595
Western Pacific -----	*1,435,304		
Salt Lake -----	70,372	1,516,661	1,445,000
Northwestern Pacific -----	319,268	427,395	763,000

\*From January 1, 1900, to October 21, 1917; no estimate for 1918 submitted.

Included in the amounts shown are expenditures for a certain amount of new construction on all four of the interstate roads. In the case of the Western Pacific and the Salt Lake railroads such construction includes at least two items for new lines to be built, for merely competitive reasons, into territory which is already served by existing rail-

roads. We have in mind the Western Pacific extension now being built from Niles to San Jose and the Salt Lake branch line now being built from Whittier to Santa Ana. The former extension is 23 miles long and is estimated to cost \$1,300,000.00, and the latter is 20 miles long and is estimated to cost \$1,400,000.00.

Under unified operation of the railroads by government, the full joint use of the railroad property is made possible and the entry of a carrier into territory not theretofore tapped by its lines (which under competitive conditions would be considered desirable even though it involved duplication of facilities) can now be fully accomplished by the use of existing lines over which the newcomer can do all of the railroad business possible to be done by the expenditure of large sums of money in the construction of additional lines. We therefore believe that unless these competitive projects are so far advanced that stoppage would entail heavy losses to the constructing carriers that further construction of these competing lines is unwarranted.

The difficulties of the railroads in competing for new money with other investments and with the government is public knowledge so common that this matter was not gone into exhaustively during the investigation. The carriers' universal remedy for this situation is, of course, the raising of rates.

The fact is established, however, that it is not principally lack of funds that interferes with necessary improvements of track, equipment, and terminals. As far as equipment goes, witnesses for all the roads testified that locomotive and car manufacturers are not now able to fill the orders of the carriers. Of remedies there seem to be only two: First, that the carriers themselves enter the manufacturing field; and second, that the government establish priority for railway necessities. The first remedy is not a real one, for the reason that the railroads can not in fact *manufacture* cars and locomotives; they can merely *assemble* the parts. The demand for parts is almost as difficult to fill as that for the finished product.

#### E—General.

- It is in their attitude towards the general aspect of the present transportation situation that the testimony of the witnesses before the commission is most important and illuminating. This is particularly true of such witnesses as may be said officially to represent the carriers and to speak with authority: Mr. William Sproule, President of the Southern Pacific Company; Mr. H. C. Nutt, General Manager of the Los Angeles and Salt Lake Railroad; Mr. I. L. Hibbard, Assistant General Manager of the Santa Fe Coast Lines, and Mr. Paul Shoup, President of the Pacific Electric Railway.

Mr. Sproule was the chairman of the western division of the Railroads' War Board; and the commission attempted to secure his views as to the actual meaning and scope as well as the actual effects of the War Board resolution passed by the presidents of the railroads of the United States, which has already been referred to.

Mr. Sproule's interpretation of the resolution is that the policy of the War Board "is a developing policy which will be announced by the Railroads' War Board from time to time, as the circumstances of the time call for." It is definitely his view that the coordination of the railways' operation in a continental railway system and the merging during the war period of all their merely individual and competitive activities, which the railroad presidents pledged themselves to bring about, should *not* be undertaken until the occasion actually arises to unify the roads. In Mr. Sproule's opinion, on December 20, 1917, the time for unification had not yet come. This is borne out by the following quotations (Tr. p. 560) :

COMMISSIONER EDGERTON: Therefore, Mr. Sproule, we can conclude safely, can we not, that coordination, unification, merging, has gone as far as necessary in the judgment of the war board?

MR. SPROULE: The war board holds the authority to accomplish those purposes. It is like all other authority that is well used; we may have the authority, but we do not exercise it until the need for the exercise arises.

And continuing—

COMMISSIONER EDGERTON: Yes. And the absence of orders or suggestions promoting a greater degree of merging or unification would lead us to conclude that the war board does not at the moment think further steps are necessary.

MR. SPROULE: I would say that the war board, in the exercise of a normal business prudence, aims to interfere as little with the ordinary processes of transportation as they can, because the ordinary processes of transportation are responsive to the ordinary wants of business, and the less interference there is with the railroads in the conduct of their general business, the less interference will there be with the commercial, industrial, and social wants of the country, to which alone the railroads are responsive.

COMMISSIONER EDGERTON: Yes. Now, Mr. Sproule, considering the railroads operating in California, in and out of California, in your judgment has there been up to the present time a merging during such period, meaning the war period, of their merely individual and competitive activities?

MR. SPROULE: There has not been such a merging because there has been no occasion for it.

This last statement may fairly be said to be the dominating note in the railway managers' attitude. This attitude leads to a peculiar position. A reading of the transcript will clearly create the impression that



the railroads of the West consider the western states as a country only remotely connected with the rest of the United States, particularly with the middle western states and the Atlantic seaboard. As far as the war is concerned, it seems as if we in the West, from a transportation standpoint, are only mildly interested in it, and that the East has no business to interfere with our normal activities. That conception was again and again defended by the witnesses of the various roads as the proper one.

Conditions in California are normal - there is no emergency here. That is the opinion of the representatives of the California interstate roads.

Leaving aside the question whether transportation conditions here are normal or abnormal (and it is abundantly clear that they are far from normal), the view that the country, and the transportation system of the country, must be considered as a whole for the purposes of the war, and that the conditions in the East and the West must be equalized as far as possible; that there is no sound reason why in justice the East should forego not only nonessential but essential transportation needs, while the West goes on as if nothing had happened - this view, at the time of the hearings, found no favor whatever in railroad circles.

Mr. Sproule's testimony makes this very evident. Not only is it his view that unification should be resorted to only as a last means but that such unification would be an evil rather than a blessing. (See Tr. p. 565.)

COMMISSIONER EDGERTON: Yes. But the point is, can they do it better; can they meet the emergency better in a unified condition, Mr. Sproule?

MR. SPROULE: Again we are confronted with the word "unified."

COMMISSIONER EDGERTON: Well, let us call it merging, or whatever you want.

MR. SPROULE: Physically unified, and with competitive relations eliminated, they would do it probably better under the stimulus of government demand at the time to meet that emergency; but under normal conditions, when the stimulus of competition is removed and they would be released from the economic pressure that competition creates, I would say that unification would not serve the public purposes as well as a competently regulated and competently compensated competition would do.

Assistant General Manager Hibbard of the Santa Fe, in dealing with this feature of the investigation, testified from the point of view of a practical railroad man. He said that unification of freight and passenger service has not yet been considered and that while he is satisfied that economies could be effected, he does not understand "the suggestions or orders or declarations of the War Board to mean that he should get together with his neighboring railroads and consider the matter." And,

"Well, to be honest about it, no; not to the extent of turning over to him some revenue if we could handle it ourselves." (Tr. pp. 452 to 455.)

Mr. E. W. Camp, attorney for the Santa Fe, interpreted the Railroads' War Board resolution to mean that the railroads should get together and *cooperate*. (Tr. p. 478.)

COMMISSIONER EDGERTON: It did not say anything about cooperation.

Mr. CAMP: Well, collaboration.

COMMISSIONER EDGERTON: Didn't say that. The word is very much stronger than that. They said "one consolidated American railroad system."

Mr. CAMP: Oh, I know the newspapers offered that --.

COMMISSIONER EDGERTON: No, no.

Mr. BRADLEY: My dear sir, I will show it to you—no newspaper business about that at all.

Mr. CAMP: That was—that, in the nature of things, was more or less exaggerated, an exaggerated statement. It could not possibly be done by any war board.

COMMISSIONER EDGERTON: This was not a war board, Mr. Camp.

Mr. CAMP: I mean to say by Fairfax Harrison and his board. It could not be done.

Mr. BRADLEY: That was done by the presidents of the different railroad systems of the United States.

COMMISSIONER EDGERTON: Let me read it to you, Mr. Camp. (Resolution was read.)

Now, I ask you again, Mr. Camp, whether you interpret that language to mean that coordination was intended only to the extent that it has now been accomplished.

Mr. CAMP: I suppose it was intended from time to time to reach whatever might be necessary.

Mr. Hibbard of the Santa Fe was equally pronounced as to the impossibility and impracticability of "unification." (Tr. p. 507):

COMMISSIONER EDGERTON: Well now, frankly, Mr. Hibbard, within your knowledge has any railroad or any two railroads or any number of railroads merged their merely competitive activities?

Mr. HIBBARD: I don't know—in the way of wiping out differences between them, I don't see that they have, and I don't see, Mr. Edgerton, how you or anybody else can expect that they are going to surrender their earnings and surrender their individuality until some order is passed by the commission or some law enacted that will enable them to pool their issues between those points, so that the earnings heretofore enjoyed by each fellow will still be continued to him. You would not expect us, because of our 112 miles of distance, even in these war times, if anybody comes to us with freight, as they do in Los Angeles, for San Francisco, do you think that war measure means that we should say, "Here, the war is on; go over and offer that to the Southern Pacific," that

we will say, "No, the Southern Pacific is the short line to Los Angeles, and our line is the longer from San Francisco, and we will incur more ton miles and it will cost more to handle the business, and you go give it to the other fellow."

COMMISSIONER EDGERTON: Please don't make me responsible for that pronouncement. I was quoting, if you please, Mr. Hibbard, from a pronouncement of the railroads themselves, of which the Santa Fe, your railroad, was a party. In other words, practically you, Mr. Hibbard, have said that during the war you would merge your merely competitive activities.

And finally, on being asked how he *did* interpret the language of the War Board, Mr. Hibbard answered: "I don't know what the fellow had in mind that wrote it."

Mr. Paul Shoup, president of the Pacific Electric Railway, whose road is an important factor in the freight situation of the state, being the third road in California in the number of freight cars handled (Southern Pacific is first and Santa Fe second), was in general agreement with the views expressed by Mr. Sproule on the transportation problem as a whole. He felt that the coordination ought to begin with the government itself in its dealings with the railroads, and that a "traffic director for the government" should be appointed.

All matters of priority and all orders for transportation services emanating from any department of the government, such, for instance, as the War Board, the Navy Department, the Food Control Board, the Fuel Control Board, the Shipping Board, the Air Craft Board, etc., should come through one channel to the railroads, who would then know what to do and would not be left to their own resources in determining who should be served first.

Mr. Shoup sees grave dangers in a too-centralized and inaccessible administration of the entire transportation system of the country. He believes that "you must place the responsibility for the business of carrying in general upon the people who are directly in contact with it locally" (Tr. pp. 696 and 697). He says (page 696) that

"when you have a situation of this kind and all of this service responsive to the public needs has been created, why, then that service is not to be disturbed rashly nor the organizations which are giving that service and directing that service to be ripped apart, especially in time of war, with any attempt at making them all over rashly."

On the same subject, and after expressing his views that if the need arises the war boards *will* reorganize the transportation systems, he says (Tr. p. 701):

"they will try at first to operate them as they are, because any attempt to rip apart these railroads must be attended with more or less confusion, and I think it would be wholly disastrous to this

country to start now, you might say at the bottom, to reorganize these railway systems while we are at war. You can see now the difficulty that we are having to attempt to create organizations to take care of the new problems that come along, such, for instance, the Shipping Board, and the wisest judgment, as I see it, would be to make use of the organizations as you find them and of the railroads and the facilities as they are, and then change those and adapt them to the situation as you may have to do as you go along."

He believes that an amalgamation of the system or a rearrangement into any number of groups "would be a very dangerous thing to do, and a last resort."

*Proposed remedies.*

We have already pointed out that all possible and proposed remedies fall into two classes: (1) remedies going to the root of things and (2) remedies looking to greater savings and efficiencies of the individual parts of the transportation machine.

Remedies in the first class were not advocated by any of the witnesses for the railroads. We believe, however, that they should be distinctly and definitely suggested by this commission.

When these hearings were held, the machinery enabling such remedies to be put into practice was not available. The President of the United States since then has placed the operation of the roads under government control; and whatever fundamental changes are found necessary and desirable can now be made. Among the fundamental remedies belong such matters as the most direct routing of freight over the most efficient line (and this resolves itself mainly into a question of grades and curvature); the using of two independent single track systems for purposes of operation as a double track; the doing away with all unnecessary "cross-haul" of commodities, such as rice in California, coal throughout the country, and other commodities. As an indication of the significance of the last suggestion, it should be pointed out that Sacramento Valley rice is now shipped to Louisiana as paddy rice, is cleaned there, and then sent back to California. It might have been cleaned here in this state and saved the transportation in and out of the state. This cross-haul waste is most clearly apparent in the coal situation, although that particular commodity does not figure to any extent in this state. We believe that the English system of dealing with the coal traffic and supplying the demands of a particular locality from the nearest available source, is an excellent one and should be adopted in this country, where the coal traffic represents approximately 30 per cent of the entire traffic.

Other large remedies in the first class are the tremendous saving in man power and expense to be effected by doing away with all merely

competitive passenger and freight service with its consequent saving in man power, motive power, equipment, fuel, etc.

The even more important matters, such as the improved credit of the railroads resulting from a unification of the entire transportation system and the consequent reduction in the cost of capital; the efficiencies and savings effected by doing away with manifold and unnecessary overhead and general expenses of the companies; the very great simplification and savings that would result from the adoption of uniform standards of construction, maintenance and operation; the savings accruing from consolidated purchasing of materials and equipment; these and other similar major remedies need merely to be pointed out in order to attract attention to their significance.

We realize the limitations of the force of any suggestions made by this commission or any actions taken by it along such lines; but we are of the opinion, nevertheless, that the commission should suggest and recommend to the principal railroads operating in this state the immediate necessity of appointing a joint board or committee, made up of qualified men from the technical, operating, and traffic departments, who should study the situation in the state as a whole and make definite recommendations looking to complete unification and complete elimination of all merely competitive activities along the lines suggested above. We believe that a definite program, divided into sections, should be mapped out for such a board and that its report, to be completed within a certain time, should be furnished to the proper federal authorities and to this commission. This report should state concretely what changes should be made, the effect of such changes on the freight and passenger service, and savings in equipment, man power, and dollars effected thereby. The basis for such a report is given in the accounting classifications of railroads of the Interstate Commerce Commission.

It seems to us that such a comprehensive study by qualified men is the first step that must be taken to carry into effect the program laid down by the President and by the Director General of Railroads.

We should venture the further suggestion that such a board, dealing with California or western conditions, should not act independently, but should merely handle a portion of a similar study to be carried on simultaneously throughout the United States.

The President of the United States has proposed to congress that the railroads be guaranteed an annual net return equal to the average annual net operating income of the three years ending June 30, 1917. As a corollary to the guarantee of profits, goes the assumption by the federal government of all operating expenses of the carriers, irrespective of what the financial operating result will be during the period of government guarantee and government operation. If such specific terms are enacted into law by congress, it seems to us that the obligation

on the carriers is greater than ever to operate economically and with as little waste as possible.

That the savings of railroad operating costs also results in the saving of man power is, during the war, an additional reason why a most thorough survey should immediately be made to determine what economies and efficiencies can be effected. We know that, in dollars, the savings will run into the hundreds of millions.

Among the lesser remedies and efficiencies advocated during this investigation, it is our opinion that the following suggestions are of value and should be acted upon by the appropriate authorities:

With reference to the labor shortage, and referring now to *unskilled labor*, it is our opinion that the illiteracy and head-tax restrictions in our immigration laws should be eliminated or suspended, so far as Mexican labor is concerned. We recommend that the commission call this recommendation to the attention of the Director General of Railroads, the representatives of this state in congress, and the Immigration Commissioner in the Department of Commerce and Labor. We also recommend that the cooperation of the State Council of Defense be sought in this matter.

Mexico, it is agreed, affords the nearest and best source of unskilled railroad laborers to meet the additional requirements on our railroads. There is the additional advantage that no repatriation difficulties enter into the Mexican labor problem, since these laborers would be brought into the country, as they have been in the past, by the railroads, used on track work, then made available for farm labor in California, Arizona, Nevada, Texas and other states not too far from the Mexican border, and after their seasonal occupation in the United States has ended they will again, and without cost to them, be returned by the railroads to their home country. It is our opinion that the unskilled railroad labor problem in a considerable part of the country will be solved if the Mexicans are permitted to come in freely and if it is made clear to those aliens that they need not fear compulsory drafting into the United States armed forces. This fear, however groundless, in addition to the impediments already mentioned, is now a contributing cause to their staying away from this country.

The proposal made by several of the carriers that the bars against Oriental labor be let down need not be further considered herein in view of the availability of Mexican labor for railroad purposes.

We further recommend that this commission lend its aid in the establishment of priority in the necessity of new public and private construction requiring unskilled labor, as compared with the necessity of the maintenance and construction work that must be done on the railroads. We believe it is a sound proposition that all public

improvements not essential to the prosecution of the war be stopped at this time if the labor necessary to do such public work is more needed for the railroads. Incidentally, the elimination of such work would have an additional effect on the railroad situation by the release of equipment and cars that would be necessary to haul the material required for such construction.

Related to this recommendation is another one: namely, that steam, electric interurban, and street railways, as well as other public utilities, should not be required at this time to live up to such of their franchise stipulations as necessitate otherwise uncalled for new construction, such as street paving in cities, replacement of existing T-rail with more expensive girder rail, and similar items. The latter suggestion will, of course, have its effect also on maintenance and capital expenditures and consequently on the net earnings of the carriers.

We recommend that the commission address the appropriate state, county, and city governmental authorities, inviting their cooperation with the program in the last two recommendations. We also suggest that the commission offer its informal assistance in cases where, by reason of franchise requirements, a city insists upon construction work that is not essential and that would appear to interfere with the more important work on the railroads.

With regard to *skilled labor*, we recommend that the commission lend its assistance to the suggestion that our universities, technical, and trade schools be called upon to arrange during the present emergency their courses of study by giving to students desiring it, in addition to school-room work, practical experience in the railroad shops. The railroads are willing to pay a reasonable compensation for such service. We agree that not only would this be valuable experience for the young engineers and technical students but it would also, to some extent at least, relieve the very serious shortage of mechanics and engineers that is now felt by the railroads in common with other industries. There might also be the additional benefit to both the men and the carriers, as suggested by some witnesses, that a good many men would be led to railroad work as a permanent vocation. To bring about this recommendation we suggest that the commission get in touch with universities and other technical schools of the state and also with the labor organizations to secure, if possible, their cooperation in this matter.

While we are making these suggestions with regard to the question of labor, we are impressed with the justice, and indeed the absolute necessity, of the proposition that in all recommendations and actions taken by any governmental body looking to the solving of any labor problem, the wishes and needs of labor itself, irrespective of whether this labor is organized or not, must be given full consideration. We are

convinced that any attempt to solve the labor problem on the railroads, or anywhere else, "from above," or without a sympathetic understanding of the point of view of labor, will not only not solve the problem but will merely aggravate it.

Our recommendations as to remedies with reference to the shortage of *equipment and motive power* are as follows:

The commandeering by the federal government, whenever it is necessary, of car and locomotive works; the establishing of priority by the federal government as between the railroad requirements of the United States and the orders for foreign allied governments and for other industries in this and other countries. We consider this recommendation general and one that might be brought to the attention of the federal authorities as a suggestion of this commission.

Remedies looking to *greater efficiency of existing equipment* are advocated by the railroads principally along lines of added penalties for the shipper in order to enforce the prompt loading and unloading of cars; and the taking away of privileges he now has in the matter of freight switching, permission to reconsign, and similar privileges. It was proposed to tighten demurrage rules and to eliminate free time on account of inclement weather, the right of the receiver of freight to have his cars delivered on his own team tracks, and like measures.

The appointment of a director general of railroads has made unnecessary any orders of this commission along these lines. Prior to government operation, and during the period of War Board control, that board theoretically issued its general orders on matters of this nature from its central point of authority, Washington, to the individual railroad companies throughout the country. Events proved that this method was not effective and did not accomplish its purpose.

We believe that under the new direction of railroad operation, supervision and control over matter indicated in the last paragraph can be better exercised through logical division headquarters, having no regard to the ownership of individual lines, than under the present system where such ownership still remains the dominant factor in the actual and detailed operation of the transportation system. As an illustration: the Southern Pacific Company's representative testified that during car shortage if the company had orders for cars at Watsonville and at Stockton, Watsonville, a noncompetitive point, would have been given preference, on the assumption that the Southern Pacific Company competitor at Stockton would be able to take care of the needs up there. It does not appear that the ability of the competitor to do this was considered; and if this competitor had taken the same course, it is very clear that noncompetitive points would have had an advantage over the cities which have two or more railroads.



In regard to the *suspension or reduction of reconsignment privilege*, it is unquestionable that this privilege is greatly abused. While there are many cases in which the reconsignment privilege is of large value to shippers, this occurs mainly in connection with perishable products; and there seems to be no reason why this privilege should not be entirely suspended so far as shipments of lumber and other nonperishables is concerned.

It is evident from the record that jobbers and speculators especially in the lumber trade, are in the habit of purchasing in carload lots without having a buyer for the product or a place in which to store it. Such people abuse transportation facilities and use them as they would warehouses or bargain counters. No undue hardship would result to any one if such practice were made impossible. As far as perishables are concerned, it is customary for cars consigned to a destination which is overstocked with a particular commodity to be diverted en route or, after arrival, to some other locality. It does not seem desirable under any condition to do away with this practice, although the reconsignment privilege can undoubtedly be reduced even in such cases. We recommend that the carriers make a study of this situation with a view to bringing about a reduction of all reconsignment privileges to the lowest possible minimum.

It is our intention to recommend the *joint use of team tracks* by all carriers which are able to reach such tracks, irrespective of ownership. With unified control of operation this condition may come about automatically; but it is nevertheless a means of relieving congestion in terminals, and might profitably be made the subject of special instructions from the Director General of Railroads.

The investigation developed the fact that the steam railroads of California thus far have been generally able to take care of all business offered them. There are exceptions to this general statement, but as a rule the congestion in the West other than that at terminals incident to export business has not embarrassed the business of the community as it has elsewhere. This is another way of saying that California transportation facilities can probably be spared to a considerable extent to relieve the acute situation in the East. During the course of the investigation the attention of the commission was called to an order by the War Board requisitioning a number of freight locomotives from the Southern Pacific and Santa Fe lines for service on congested lines in the central East. While there is no surplus of motive power and equipment in the West, it is a fact that there is less shortage here than in the East and if real unification is brought about a diversion from the West to the East would help to relieve the situation.

It is from this point of view that *the facilities of the carriers other than steam roads, and their ability to relieve the latter*, were considered in this proceeding. The hearings developed the fact that the steamer lines of the state, especially those operating in inland waterways, the interurban electric lines, the motor truck, and even the street car lines, are in a position to handle a very large amount of short-haul freight, especially less than carload freight, that is now handled by the main interstate roads. On the ability of the electric roads to give such relief, the testimony of Mr. Paul Shoup, president of the Pacific Electric Railway, was particularly illuminating. The Pacific Electric is the third carrier in the state in the number of freight cars handled. This company does a very large amount of switching to and from industry tracks in and out of the city of Los Angeles; and it appears that electric operation is superior to steam operation in such service. One of the chief advantages of electric operation seems to be the flexibility of the service and the fact that motive power is used practically in the proportion to the weight to be moved, and that consequently there is much greater economy than in the case of steam locomotive.

We call attention to the matter of *electric operation in terminal freight service* for the reason that the possibilities along this line seem to be very large in almost every important city in the United States. There is at this time practically no cooperation between the electric lines and the steam lines in such localities, and we know of no intelligent investigation that has been made to see what can be accomplished in this direction. It is only in instances like that just mentioned, where the Pacific Electric Railway is through ownership and operating agreements intimately associated with an important steam line such as the Southern Pacific, that reliable data can be had on the possibility of relief from this source. We believe that this feature should be given careful consideration in the study of the Los Angeles terminal problem now being made by the commission.

When the possible *elimination of unnecessary passenger* service is considered it becomes evident at once that in almost all cases where steam lines compete with electric interurban lines the latter can as a rule render this service more satisfactorily, more economically, and as a rule, altogether relieve the steam lines of such competing business. Mr. Shoup testified that the Pacific Electric in the Los Angeles territory is

“now carrying all the Southern Pacific Company’s passenger traffic for them practically in the territories served by both lines. We carry all their Pasadena, Long Beach, San Pedro, and Santa Monica traffic, and their tickets are also good over practically all lines of importance on the Pacific Electric. We are handling all their San Bernardino and Riverside business for them. The subject has been discussed with the Salt Lake, but no conclusion reached as to making some such similar arrangement. The result has been very

satisfactory, I think, from the Southern Pacific point of view, and has been quite acceptable from the Pacific Electric point of view. The difficulties which might face the Santa Fe or Salt Lake would be in transferring packages and baggage to our stations. In Los Angeles, the principal transfer point, our cars run directly to the Southern Pacific station. We do not run either to the Salt Lake or to the Santa Fe station; but with that one feature eliminated, we should be able, assuming it is to the interest of the steam line to do so, to take care of their traffic at common points locally. I know of no reason why we should not."

Now that we have unified railroad control, and operation has become a question of most efficient service rather than largest possible net earnings to individual lines, we agree altogether with Mr. Shoup's last sentence. The savings in operating expenses, in man power, and in equipment that can be made by a rearrangement of passenger service along such lines, and without any impairment of the service to the public, is very large. It is evident that the same condition exists in all of the large communities of the country where interurban electric roads compete with so-called commutation steam passenger service.

It is our recommendation that in the case of the Los Angeles territory the commission ask the steam lines concerned immediately to institute a survey with a view to determining to what extent the Pacific Electric can furnish the necessary passenger service in the territory affected and to what extent competing steam line passenger service should be eliminated. If necessary, authority to make such a survey and the recommendation into effect should be secured from the Director General of Railroads.

Question 32 of the inquiry sent to the carriers dealt with the *cost of soliciting business*. While the figures returned by the carriers are not complete and are not so arranged as to permit of finding the total cost of soliciting business in any one territory, they nevertheless lead to the conclusion that the item of advertising alone runs into millions. It was our purpose even prior to the taking over of the railroads by the federal government, to recommend to the commission that steps be taken to eliminate to the largest possible extent all traffic expenses resulting from the cost of securing competitive business. It seems to us a peculiarly indefensible waste of energy and money to expend large sums in efforts to get more business when, as a matter of fact, many carriers were unable properly to handle such business as was offered to them. Now that competitive operation is a thing of the past, such expenditures are altogether unwarranted. How considerable an item this is will be apparent from the summary of the Interstate Commerce Commission's statistics of revenue and expenses of the large steam roads in the United States for the year ending June 30, 1916, where it is shown that "traffic



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expenses," which include only expenditures for advertising, soliciting, and securing traffic and for preparing and distributing tariffs governing such traffic, aggregated \$60,604,496.00. There is no doubt in our minds that at least 75 per cent of this expenditure can now be eliminated without any impairment of the efficiency and convenience of the transportation service.

In view of the present status of railway control we recommend that the commission take up informally with the railroads and all other parties interested in this proceeding, such of the recommendations made by us as may appear to be useful in bringing about complete national control and the highest possible efficiency of the transportation system during this emergency. In cases where the authority of the Director General of Railroads should be had before any of the recommendations can be acted upon, such authority should be secured and the results of this investigation and our report made available to him.

We believe that this proceeding should not be dismissed at this time but that it should be kept open for such further action as may be deemed advisable by the commission.

#### ORDER.

The commission having on its own initiative instituted an investigation into the services and maintenance and the economies of operation of transportation companies in California, during the emergency created by the war; and public hearings having been held; and testimony having been submitted,

*It is hereby ordered* that the recommendations and suggestions in the foregoing opinion be called to the attention of the parties referred to, and that the proceeding be continued for such further action as may appear desirable to the commission.

The foregoing statement, opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this ninth day of February, 1918.



## DECISION No. 5125.

IN THE MATTER OF THE APPLICATION OF SUTTER BUTTE CANAL COMPANY AND GRIDLEY LAND AND IRRIGATION COMPANY FOR AN ORDER AUTHORIZING SAID GRIDLEY LAND AND IRRIGATION COMPANY TO SELL A PORTION OF ITS SYSTEM TO SAID SUTTER BUTTE CANAL COMPANY.

Application No. 3508.

*Decided February 11, 1918.*

BY THE COMMISSION.

**ORDER.**

Gridley Land and Irrigation Company having asked authority to sell to Sutter Butte Canal Company for the sum of \$10,000.00 an irrigation distributing system in the vicinity of Gridley, Butte County, the transfer to be made in accordance with a form of conveyance attached to the application in this proceeding, in which conveyance the property to be transferred is described as follows:

"That certain ditch known as Lateral No. 4 (also sometimes known as Colony 8 ditch, and also sometimes known as Gridley Lateral No. 4) used for the purpose of carrying water from the main canal of the party of the second part for the irrigation of lands near the town of Gridley, in said county of Butte, state of California, said ditch connecting with said main canal at a point in section 29, township 18 north, range 3 east, Mount Diablo base and meridian, in said county and state.

"Also the branches of said ditch delineated on the map attached hereto and made a part hereof.

"Also all of the lands lying within the exterior lines of the right of way of said ditch and said branches thereof, and all rights of way, easements and other rights for said ditch and said branches thereof, and for the enlargement, extension, maintenance, operation and control thereof.

"Together with the appurtenances thereunto belonging, or in anywise appertaining."

And the Sutter Butte Canal Company having joined in the application and the commission being of the opinion that no public hearing is necessary,

*It is hereby ordered* that Gridley Land and Irrigation Company be and hereby is authorized to transfer the irrigation system described above and as delineated on the map attached to the petition to Sutter Butte Canal Company, upon the following conditions:

(1) Within ten days after the transfer of said property, applicant shall file with the Railroad Commission a certified copy of the deed so entered into.

(2) The authority herein granted shall apply only to such transfer as may be entered into on or before April 1, 1918.

(3) That the consideration paid for the property herein authorized to be transferred, will never be urged as its value before the Railroad Commission or any other public body for rate-fixing or any other purpose.

Dated at San Francisco, California, this eleventh day of February, 1918.

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DECISION No. 5127.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY, FOR AUTHORIZATION TO ISSUE PROMISSORY NOTES, TO EXECUTE A COLLATERAL TRUST AGREEMENT AND TO PLEDGE BONDS THEREUNDER TO SECURE SAID NOTES.

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Application No. 3509.

*Decided February 11, 1918.*

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Applicant authorized to issue \$4,000,000.00 face value of its two-year 6 per cent notes secured by \$5,250,000.00 face value of its general mortgage bonds, the proceeds from \$3,300,000.00 of such notes to be used to pay off in whole or in part outstanding notes of the face value of \$3,325,000.00, the proceeds from the balance to reimburse treasury covering expenditures made but not heretofore capitalized.

*John E. Behan*, for Applicant.

*LOVELAND*, Commissioner.

**OPINION.**

Spring Valley Water Company asks authority to issue \$4,000,000.00 face value of two-year 6 per cent notes due March 1, 1920, and \$5,250,000.00 of its 4 per cent general mortgage bonds payable December 1, 1923. Applicant intends to sell its notes on a 7 per cent basis and use the proceeds for purposes hereinafter specified. The \$5,250,000.00 of bonds it desires to pledge as security for the payment of the \$4,000,000.00 of notes.

Applicant has reported revenues and expenses for 1917, 1916 and 1915 as follows:

Item	1917	1916	1915
Operating revenues .....	\$3,632,252 40	\$3,509,784 48	\$3,512,795 50
Operating expenses .....	1,716,110 53	1,683,270 89	1,633,885 18
Net operating revenues.....	\$1,916,141 87	\$1,826,513 59	\$1,878,910 32
Miscellaneous income—			
Rents .....	\$172,984 74	\$118,836 13	\$109,661 82
Interest on impounded moneys, etc.....	72,366 33	63,282 44	53,499 30
Miscellaneous .....	21,587 76	1,645 41	1,441 16
Total miscellaneous income.....	\$266,938 83	\$183,763 98	\$164,602 28
Gross income .....	\$2,183,080 70	\$2,010,277 57	\$2,043,512 60
Deductions—			
Interest .....	\$790,862 45	\$792,031 71	\$776,079 09
Uncollectible bills .....	9,230 77	6,505 67	2,336 79
Rent expenses .....		35,224 63	17,624 69
Nonoperating taxes .....	25,460 43	25,029 59	21,404 76
Amortization of debt discount and ex- pense .....	1,843 36	48,575 44	23,629 20
Contingent liability .....	58,204 23	46,737 15	290,323 88
Miscellaneous nonoperating expenses...	1,618 29	1,895 15	2,363 76
Miscellaneous .....	2,452 93		134 49
Total deductions .....	\$889,672 46	\$955,999 34	\$1,133,896 66
Surplus earnings for year.....	\$1,293,408 24	\$1,054,278 23	\$909,615 94

The operating expenses for 1915 include \$260,000.00 for depreciation and \$474,892.77 for taxes; those for 1916 include \$288,000.00 for depreciation and \$494,026.02 for taxes, while those for 1917 include \$288,000.00 for depreciation and \$525,787.19 for taxes. In 1915, the company disbursed in the form of dividends \$840,000.00; in 1916 \$980,000.00 and in 1917 \$1,015,000.00. Applicant's reports show that during the three-year period, its surplus has been increased from \$448,226.35 to \$863,921.65.

Applicant reports that on December 31, 1917, its assets and liabilities were as follows:

<i>Assets.</i>	
Fixed capital.....	\$68,517,666 75
Bonds in treasury, including 3,897 pledged.....	6,262,000 00
Materials and supplies.....	267,156 88
Cash on hand and in banks.....	39,914 28
Cash deposited with Union Trust Company because of real estate subject to mortgage.....	619,322 65
Consumers' accounts receivable.....	106,028 88
Other accounts receivable.....	34,219 06
Contingent asset—deposits under injunction proceedings.....	2,278,074 19
Discount on 5½ per cent notes.....	31,351 19
Suspense temporary water system at Camp Fremont.....	21,621 52
Total assets.....	\$78,177,355 40

<i>Liabilities.</i>	
Capital stock outstanding.....	\$28,000,000 00
Surplus capital contributed by shareholders.....	840,000 00
Bonds outstanding.....	24,121,000 00
In hands of public.....	\$17,859,000 00
In treasury.....	6,262,000 00
Six months 5½ per cent collateral trust notes.....	3,000,000 00
Current liabilities.....	689,128 77
Twin Peaks tunnel assessment.....	736,945 81
Depreciation and obsolescence fund.....	3,326,196 20
Contingent liability fund.....	2,278,074 19
Employees insurance fund.....	44,760 86
Real estate sales suspense.....	25,995 35
Capital surplus—appreciation of properties.....	14,251,332 57
Surplus—net revenue.....	863,921 65
<b>Total liabilities.....</b>	<b>\$78,177,355 40</b>

Applicant reports its capital expenditures for the six months ending December 31, 1917, as follows:

City distribution mains.....	\$17,983 64
Service connections.....	9,078 51
Meters installed in San Francisco.....	9,981 85
Meters installed outside of San Francisco.....	618 80
Calaveras dam.....	281,133 55
Pleasanton Township County Water District, well and pipe.....	25,221 00
Pleasanton improvements, drainage and irrigation.....	11,501 23
Sunol improvements, extending filter gallery, etc.....	5,170 07
San Antonio dam.....	2,070 56
Crystal Springs reservoir, road work.....	157 66
San Andreas aqueduct.....	897 60
San Andreas transmission line, trestle.....	580 03
San Andreas reservoir, fences and sewer.....	364 91
Ravenswood pumps, additions to cottage.....	218 27
Stone dam aqueduct.....	178 46
Niles supply line.....	1,541 84
Street assessment work, San Francisco.....	10,098 32
Lake Merced development, subdivision, etc.....	1,127 77
Columbia Heights water system, pump and tank.....	1,594 70
Newcombe avenue pump.....	1,074 83
Black Point pump, new oil tank.....	1,866 58
New garage, machine and blacksmith shop, San Francisco.....	2,374 43
Telephone line.....	9 90
	<b>\$384,844 51</b>

**Credit:**

Refund of part of original deposit on purchase of 40 acres Calaveras reservoir.....	25 00
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	<b>\$384,819 51</b>
Twin Peaks Ridge Tunnel assessment No. 5.....	202,720 80
	<b>\$587,540 40</b>

Applicant further reports that prior to July 1, 1917, it has expended \$1,065,896.35, against which the commission has never authorized the

issue of any form of security. Its total uncapitalized expenditures to December 31, 1917, are reported at \$1,653,436.75.

Applicant has an authorized bond issue of \$28,000,000.00. The bonds mature December 1, 1923, and bear interest at the rate of 4 per cent per annum, payable semiannually. Of the bonds authorized, \$17,859,000.00 were outstanding on December 31, 1917. In addition to the bonded indebtedness, applicant reports that pursuant to Decision No. 4560, dated August 21, 1917, it has issued \$3,325,000.00 face value of notes payable March 1, 1918.

Applicant now asks authority to issue \$4,000,000.00 face value of two-year 6 per cent notes payable March 1, 1920. Of these notes, it desires to issue forthwith \$3,300,000.00 and use the proceeds to pay in part the \$3,325,000.00 of notes due March 1, 1918. If the notes are sold on a 7 per cent basis, applicant will realize approximately \$3,239,394.18, or \$85,605.82 less than the face value of the notes to be paid. Applicant will pay the balance due on the notes, approximately \$85,605.82, as well as the expenses incidental to the issue of the \$4,000,000.00 of notes, out of its surplus earnings. The remaining \$700,000.00 of two-year 6 per cent notes applicant proposes to issue from time to time for the purpose of reimbursing its treasury for capital expenditures prior to December 31, 1917, as its financial needs may demand. Inasmuch as applicant reports an uncapitalized expenditure of \$1,653,436.75 to December 31, 1917, I am of the opinion that it should be authorized to use the proceeds from the issue of the \$700,000.00 of notes to reimburse in part its treasury for capital expenditures prior to December 31, 1917.

Applicant asks authority to execute a collateral trust agreement under the terms of which it desires to issue the \$4,000,000.00 of two-year 6 per cent notes due March 1, 1920. A copy of the agreement has been filed herein and marked Exhibit No. 1. The agreement, among other things, provides that the notes may be issued in various denominations, ranging from \$1,000.00 to \$100,000.00 each; that the notes may be redeemed at 101½ per cent of the principal sum on the first interest date, at 101 per cent of the principal sum on the second interest date and at 100½ per cent of the principal sum on the third interest date; that \$3,300,000.00 of the notes may be issued forthwith and that as security for the \$3,300,000.00 of notes the company will deposit with the trustee \$4,290,000.00 of its general mortgage 4 per cent bonds; that the remaining \$700,000.00 of notes may be issued from time to time as the company deems necessary under the same terms and conditions as the \$3,300,000.00 of notes and that the company will always keep on deposit with the trustee as collateral security for the payment of the notes a sufficient amount of its general mortgage 4 per cent bonds as will render

the notes available for investments by savings banks under the terms of the California Banking Act. It appears that the \$4,290,000.00 of bonds now to be pledged as collateral security for the \$3,300,000.00 of notes are more than sufficient to meet the requirements at this time. It is advisable, however, to allow some margin to cover a decline in the price of applicant's bonds. If the price of its bonds increase, it may under the trust agreement withdraw part of the collateral. Bearing in mind the various appraisals of applicant's properties, its funded debt and its earnings, I am willing to recommend the approval of the collateral trust agreement. It should, however, be understood that the approval of the agreement in no way commits the commission to authorizing the issue of more than \$5,250,000.00 of bonds as security for the payment of the \$4,000,000.00 of notes. If it should become necessary to deposit additional collateral, the matter of issuing bonds for that purpose will have to be taken up in a subsequent proceeding.

I herewith submit the following form of order:

#### ORDER.

Spring Valley Water Company having applied to the Railroad Commission for authority to issue and sell \$4,000,000.00 face value of two-year 6 per cent notes due March 1, 1920, and issue and pledge \$5,250,000.00 of its general mortgage 4 per cent bonds due December 1, 1923, a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by the issue of said notes and the pledging of said bonds is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Spring Valley Water Company be and it is hereby granted authority to execute a collateral trust agreement substantially in the same form as the collateral trust agreement filed with the Railroad Commission in this proceeding and marked Exhibit "Number One."

*It is hereby further ordered* that Spring Valley Water Company be and it is hereby granted authority to issue, on a 7 per cent basis or upon more favorable terms, \$4,000,000.00 face value of its two-year 6 per cent notes payable March 1, 1920.

*It is hereby further ordered* that Spring Valley Water Company be and it is hereby authorized to issue and pledge as security for the payment of said \$4,000,000.00 of notes \$5,250,000.00 face value of its general mortgage 4 per cent bonds payable December 1, 1923, said bonds to be pledged in the ratio of approximately \$1,000.00 of bonds to every \$760.00 of notes issued.

The authority herein granted is granted upon the following conditions and not otherwise.

(1) The proceeds from the sale of the \$3,300,000.00 of notes herein authorized to be issued shall be used by applicant to pay in whole or in part the \$3,325,000.00 of notes due March 1, 1918, and issued pursuant to the Railroad Commission's Decision No. 4560, dated August 21, 1917.

(2) The proceeds from the sale of the remaining \$700,000.00 of notes applicant shall use for the purpose of reimbursing its treasury in part for capital expenditures prior to December 31, 1917.

(3) The approval herein given of the collateral trust agreement is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said collateral trust agreement as to such other legal requirements to which said collateral trust agreement may be subject.

(4) The authority herein granted to execute a collateral trust agreement substantially in the same form as the collateral trust agreement filed with the commission and marked Exhibit "Number One" shall not be interpreted as authorizing the issue and deposit of bonds in excess of \$5,250,000.00, it being understood that if it should become necessary to deposit additional bonds under the terms of said collateral trust agreement, the matter of issuing and depositing any additional bonds will be taken up in a subsequent proceeding.

(5) After the notes herein authorized to be issued shall have been paid, the bonds pledged as collateral security for the payment of said notes shall be returned to applicant's treasury and thereafter issued only upon further order of this commission.

(6) On or before the twenty-fifth day of each month, applicant shall file with the Railroad Commission such statements as are required by the commission's General Order No. 24, said order, in so far as applicable, being made a part of this order.

(7) The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

(8) The authority herein granted shall apply only to such notes and bonds as may be issued or pledged on or before February 28, 1919.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fourteenth day of February, 1918.

## DECISION No. 5131.

IN THE MATTER OF THE APPLICATION OF WILLIAM F. FOWLER,  
RECEIVER OF THE PROPERTY OF SACRAMENTO VALLEY WEST  
SIDE CANAL COMPANY, FOR AN ORDER AUTHORIZING AN  
INCREASE IN RATES FOR WATER FOR IRRIGATION.

Application No. 3369.

*Decided February 18, 1918.*

1. The Railroad Commission has jurisdiction to issue an order directing a public utility water company to make such improvements to its system as are necessary to enable it to care for additional demands for water when the lands proposed to be irrigated thereby are all within the district which the utility holds itself out as serving. The improvements which applicant was directed to make were ordered with a view to enabling it to more fully serve the district for which the irrigation system was originally constructed.
2. Section 36 of the Public Utilities Act specifically confers on the Railroad Commission the power to order public utilities to make reasonable extensions, repairs and improvements to their systems, which power has been uniformly upheld by the courts; accordingly, an order issued under such provision does not constitute "taking of property without compensation."
3. When application is made by a consumer of the utility for water to irrigate a designated tract of land and the application is granted, such consumer should be obliged to pay for all the land applied for; however, he should retain the right, when making application, to exclude his acreage covered by slough or other land not to be irrigated.
4. As the rates heretofore established, applied to lands now irrigated and the additional acreage applicant intends serving, will provide a just and reasonable return upon the fair value of its property, petition for rehearing denied.

BY THE COMMISSION.

**OPINION ON PETITION FOR REHEARING.**

On January 25, 1918, the Railroad Commission made its order herein (Decision No. 5071) establishing rates, rules and regulations applicable to the service of water by petitioner herein, for the irrigation of lands in Glenn and Colusa counties, and directing petitioner to make such improvements and to incur such expenditures as may be necessary so that the irrigation system of Sacramento Valley West Side Canal Company will develop during the irrigation season of 1918 sufficient water to irrigate at least 26,000 acres of rice land and 15,000 acres of land planted to general crops. A petition to increase the rates heretofore in effect was denied.

William F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, now petitions for a rehearing, or at least for a modification of the order hereinbefore made, on the following grounds:

1. That the order, in so far as it directs petitioner to make such improvements and incur such expenditures as may be necessary so that the irrigation system of Sacramento Valley West Side Canal Company



will have developed during the irrigating season of 1918 sufficient water to irrigate at least 26,000 acres of rice land and 15,000 acres of land planted to general crops, compels the petitioner "to engage in a new and additional enterprise requiring the expenditure of money" and "to dedicate its property to a new use," and hence amounts to a "taking" of the property "without compensation," in violation of the constitution of California and the constitution of the United States, and particularly the fourteenth amendment of the federal constitution.

2. That the order should be modified with reference to the ascertainment of the area of land for the irrigation of which payment is to be made.

3. That the petition for an increase of rates should have been granted.

4. That the order should be modified so as to make it clear that the receiver may exercise his discretion in accepting or refusing promissory notes in lieu of cash in payment for rice rates.

We shall consider these points in order.

#### 1. The Ten Thousand Additional Acres of Rice Land.

The order herein, in part, directs petitioner to make such improvements and to incur such expenditures as will enable this system to irrigate 10,000 acres of rice land in addition to the lands of all crops irrigated in 1917.

The petition alleges, in this respect, that the owners of at least 10,000 acres of additional land will require water during the year 1918 for the purpose of growing rice; that petitioner is supplying water to the full present capacity of its system; and that to supply additional requirements it will be necessary to install additional pumping plants and to make enlargements in certain portions of the main canal at a cost of at least \$100,000.00, to supply 10,000 additional acres of rice land. While the petition alleges that petitioner doubts his ability to secure enough pumping machinery to supply more than 4,000 additional acres of rice land, evidence presented by witnesses for the petitioner at the hearing shows that the additional machinery to meet the requirements of the full 10,000 additional acres of rice land can very probably be secured.

The petition further alleges that it is "the purpose of petitioner," if his rates are increased sufficiently to enable him to do so, to devote all moneys received by him over operating and legal expenses "to the installation of a pumping plant and enlarging of the main canal, so as to enable him to supply as much additional land as possible during the season of 1918 and also to prepare for a still further increase during the season of 1919." "In other words," says the petitioner, "your petitioner does not intend to devote any additional revenue that may come to him as such receiver, by reason of the increase of rates, to the

payments of dividends, but intends to, subject to the approval of the court, apply the same to extending the pumping plant and ditch system so as to bring into cultivation a larger quantity of land."

At the hearing petitioner filed an exhibit showing that the total cost of making the necessary improvements so that petitioner will be able to irrigate 10,000 additional acres of rice land will be \$117,000.00, of which amount \$12,300.00 was paid in 1917. The Railroad Commission accepted this estimate and added thereto an item of \$8,700.00 for additional transformer installation at the pumping plant.

Mr. W. F. Fowler, the petitioner, testified that he already has authority as receiver to sell \$40,000.00 additional receiver's certificates, and that the bondholders' committee has agreed to purchase the same, the proceeds to be applied on the improvements as proposed and now actually being installed. He also testified that the bondholders have agreed to permit the \$25,000.00 of receiver's certificates heretofore issued to remain outstanding. The receiver testified that what he primarily desired was that the Railroad Commission should authorize financial assistance from rates, so that he could pay for the remaining portion of the contemplated improvements. The Railroad Commission did so, by providing that the initial installment of rates, payable on February 15, 1918, should be increased from 10 per cent to 20 per cent, thus assuring the receiver of \$42,400.00 from this source some little time prior to the completion of the improvement.

It clearly appears that the improvements as proposed will enable petitioner to irrigate said 10,000 additional acres of rice land; that the estimates of cost, presented by petitioner and accepted by the Railroad Commission, will cover the work; that the receiver is assured of sufficient funds to pay for the work; and that the work is actually being done.

Nevertheless petitioner now objects to the order herein, which was made to remove any possible uncertainty as to what would be done and to establish a definite basis on which to estimate petitioner's gross revenue for 1918.

Petitioner does not urge that he is not a public utility or that he is not subject to the jurisdiction of this commission. Nor could such a contention reasonably have been made in view of the decision of the Supreme Court of California in *Byington vs. Sacramento Valley West Side Canal Company*, 170 Cal. 124, holding that this water system is a public utility; the decision of the Railroad Commission in Cases Nos. 597 and 673 (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 113), holding that this petitioner, the receiver, is a public utility; section 23 of Article XII and section 1 of Article XIV of the state constitution and section 2 of the Public Utilities Act; and a number of formal proceedings before the Railroad

Commission in which the petitioner herein has, on his own initiative, asked relief on the theory solely that he is a public utility. In this very proceeding, petitioner asks permission to increase his rates and thereby clearly concedes his public utility character.

Conceding that he is a public utility and subject to the Railroad Commission's jurisdiction, petitioner nevertheless urges that the order herein provides for a "taking" of property "without compensation," by reason of the fact that it directs a public water utility to make improvements to irrigate an increased acreage of land.

The facts show clearly that the land for which water is now demanded is all part of the lands for the irrigation of which the main canal operated by petitioner herein was planned and has been partly constructed. The facts appear fully in the testimony in said Cases Nos. 597 and 673, which testimony was by stipulation made a part of the record in this proceeding, and in the decision of the Railroad Commission made on June 14, 1915, in said cases. The main canal was planned to irrigate all the lands in the old Central Irrigation District. The right to divert water from the Sacramento River for this project was secured from the federal government and the notices of appropriation under which petitioner claims were posted, for the purpose of securing water to irrigate at least all the lands in the Central Irrigation District. With this same purpose in view, Central Canal and Irrigation Company, a public utility and one of petitioner's predecessors, extended the main canal to the Sacramento River and served water through it. South of the Irrigated Farms Check, being a point about three miles northeast of Willows, to the southerly end of the main canal, it has been excavated to grade and can carry all the water originally contemplated. North of the Irrigated Farms Check to the Sacramento River, the main canal throughout a portion of its extent has not heretofore been excavated to grade; along another portion its sides have not been raised in accordance with the original plan; nor have the pumps heretofore installed had a sufficient capacity. What the petitioner contemplates doing and what the order directs him to do is simply to make improvements in the northerly portion of the main canal by increasing the pumping installation, excavating a portion of the canal and raising the banks on another portion of the canal so as to enable the main canal to fulfill more nearly the purpose for which it was planned and constructed and to irrigate more nearly the acreage of land within the Central Irrigation District for the irrigation of which this entire project was created. The 10,000 additional acres of rice land which now desire water are all within the Central Irrigation District and are adjoining and in part almost surrounded by lands which have been irrigated from this water system.

Section 36 of the Public Utilities Act specifically confers on the Railroad Commission the power, when it finds after hearing that a public utility ought reasonably to make extensions, repairs or improvements to its existing plant, equipment or other physical property, to direct the public utility to make such extensions, repairs or improvements. The section reads in part as follows:

“Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing that such additions, extensions, repairs, improvements or changes be made or such structure or structures be erected in the manner and within the time specified in said order. If the commission orders the erection of a new structure, it may also fix the site thereof.”

The duty of a public utility to make such improvements and extensions as are reasonably necessary to give adequate service to the community which it has been constructed to serve is so clearly established as to make a citation of authorities surplusage. The principle is stated and a few of the cases are referred to in Wyman, Public Service Corporations, section 797.

The most recent decision of the Supreme Court of the United States to this effect is *People ex rel. New York and Queens Gas Company vs. McCall*, decided on December 10, 1917. In this case, the Supreme Court upheld an order of the Public Service Commission of the First District of New York directing a gas company to extend its gas mains and service pipes in such a manner as to serve with gas a community which was located about  $1\frac{1}{2}$  miles beyond the then terminus of the company's gas mains, but within the borough of Queens. The Supreme Court, speaking through Mr. Justice Clarke, said in part:

“Corporations which devote their property to a public use may not pick and choose, serving only the portions of the territory covered by their franchises which it is presently profitable for them to serve, and restricting the development of the remaining portions by leaving their inhabitants in discomfort without the service which they alone can render.”

Attention may be directed to the fact that in the present proceeding, the commission did not direct petitioner to make any extension whatever of the existing canal. The order simply directs the petitioner in

part to deepen and in part to raise the banks of the existing canal where now "choked" and to increase the capacity of the pumps accordingly.

Petitioner relies in this regard on *Atchison, Topeka and Santa Fe Railway Company vs. Railroad Commission*, 173 Cal. 577; *Del Mar Water Company vs. Eshleman*, 167 Cal. 666; and *Pacific Telephone and Telegraph Company vs. Eshleman*, 166 Cal. 640. None of these cases support petitioner's contention. In the *Atchison, Topeka and Santa Fe Railway Company* case, the court, at page 585, expressly concedes the right of public authority to compel water, gas, electric and telephone companies to make extensions. The court distinguishes these utilities from a railroad company which is being directed to build "a new line of railroad" off from its existing line of railroad. The *Del Mar* case, so far from supporting petitioner, is direct authority in support of the order herein, for the reason that the additional lands which are to receive water under the order herein are all "within the district, or area, to the use of which the water owned or controlled by that company, is dedicated." The *Pacific Telephone* case was decided in favor of the Railroad Commission on every point except one, namely, that the commission has no power, without awarding "compensation" for the "taking" to direct one telephone company to render long distance service to another telephone company which is a competitor of the first company in local exchange service. The case has no bearing on the facts of the present proceeding.

We conclude that in the present proceeding the order merely directs petitioner to improve the property so as to render more adequate service to the community for the service of which the system was constructed and to the service of which the property is obligated, that there is here no "taking" of property and no "compensation" to be paid for any "taking," and that the order in this respect violates no constitutional or statutory provision.

## **2. Area of Land For Which Rates Are To Be Paid.**

Petitioner objects to certain language in the opinion herein stating that payment should be made only for the net area of the crop and not for sloughs and other areas included within the exterior boundaries of a tract but not irrigated for crops. Petitioner alleges that he must know in advance how much water will be required for the irrigating season and that it would not be reasonable to have a landowner apply for water for a specified acreage and thereafter, toward the end of the season when it is too late to sell the unused water to another irrigator, refuse to pay for part of the acreage on the ground that it is a slough or other nonirrigated land.

We made no order on this subject. We agree with petitioner that when application is made for water to irrigate a designated tract and the application is granted, the irrigator should, in the absence of some

very unusual circumstance, be required to pay for all the land applied for. On the other hand, he should have the right, when making application for his tract, to exclude the acreage covered by the slough or other land not to be irrigated.

The matter can readily be covered by the rules and regulations which it will be necessary for petitioner to file herein.

### 3. Just and Reasonable Rates.

Petitioner urges that its application for an increase in rates should have been granted.

This matter was fully examined and considered in the opinion and order of January 25, 1918, herein. As there shown, petitioner will secure from the 10,000 additional acres of rice land, hereinbefore referred to, an additional gross revenue of \$70,000.00 at flat rates. The net operating deficits of over \$70,000.00 in 1914 and in 1915 and the net operating revenue of \$5,941.00 in 1916 and \$24,252.00 in 1917 are to be converted into a net operating revenue of \$77,000.00 in 1918, a sum sufficient to yield a just and reasonable return on the fair value of the property.

While we are satisfied that the flat rates will yield to petitioner a just and adequate return, we desire to direct attention again to the fact that as an alternative to the flat rate of \$7.00 per acre for rice and \$2.00 per acre for general crops, we have also authorized meter rates which on the evidence in Cases Nos. 597 and 673 and herein should yield petitioner a substantially increased revenue over the flat rates, besides preventing waste of water and conserving water for the irrigation of additional lands, thus still further increasing petitioner's revenue.

We are convinced that petitioner has no just ground for complaint at the rates herein established.

### 4. Acceptance of Notes in Lieu of Cash on Rice Rates.

Section 5 of the order herein reads in part as follows:

"When the flat rate is in excess of \$2.00 per acre, such payments may be evidenced by promissory notes dated the first day of each month, beginning May 1, 1918, all payable November 1, 1918, such notes to be secured by a crop mortgage, which shall be a first lien on the crops, or, in case such crop mortgage can not be given, then other security shall be given to the satisfaction of the utility, such notes to bear interest at the rate of 7 per cent per annum."

Similar language was inserted, at the suggestion of the petitioner, in the orders heretofore made establishing rates, rules and regulations for the seasons of 1916 and 1917.

No request for a change was made in the original petition herein nor was this change in any way suggested by petitioner at the hearing, although the presiding commissioner asked petitioner to present all

suggested changes in the rules and regulations heretofore in effect. In view of these facts, we do not believe that any change should be made in this rule as heretofore suggested and agreed to by the petitioner.

In case of dispute with reference to the character and sufficiency of the security in lieu of a crop mortgage, the matter may be referred to the Railroad Commission, and provision to that effect shall be inserted in petitioner's rules and regulations.

After careful consideration of each point urged by petitioner in his petition for rehearing herein, we see no good reason for holding a rehearing or modifying the order heretofore made herein.

#### ORDER.

William F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, having filed herein his petition for rehearing, careful consideration having been given to the same and no good reason appearing why a rehearing should be held,

*It is hereby ordered* that said petition for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this eighteenth day of February, 1918.

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#### DECISION No. 5133.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK AND BONDS, THE EXECUTION OF A DEED OF TRUST, THE PURCHASE OF PROPERTY, AND THE OPERATION, UNDER VARIOUS FRANCHISES; OF HOME TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE SALE OF ITS PROPERTY TO SOUTHERN CALIFORNIA TELEPHONE COMPANY; OF SUNSET TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE SALE OF A PORTION OF ITS PROPERTY TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY; AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE SALE OF A PORTION OF ITS PROPERTY TO SOUTHERN CALIFORNIA TELEPHONE COMPANY AND THE ACQUISITION OF CAPITAL STOCK OF SOUTHERN CALIFORNIA TELEPHONE COMPANY.

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Application No. 2227.

*Decided February 18, 1918.*

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BY THE COMMISSION.

#### FOURTH SUPPLEMENTAL ORDER.

Southern California Telephone Company having applied to the Railroad Commission for authority to execute a supplemental trust

indenture in substantially the same form as the supplemental trust indenture marked Exhibit "A" and attached to the supplemental petition in the above-entitled matter, filed on February 14, 1918, for the purpose of qualifying its bonds issued under its mortgage or deed of trust, dated May 1, 1917, as a legal investment for savings banks in the state of California; and it appearing that the proposed supplemental trust indenture contains all of the provisions of the supplemental trust indenture which the Railroad Commission by Decision No. 4745, dated October 11, 1917, authorized Southern California Telephone Company to execute; and it further appearing that in the proposed supplemental trust indenture Southern California Telephone Company, among other things, agrees that it will issue no bonds unless the payment of the same is guaranteed by The Pacific Telephone and Telegraph Company; that it will issue no additional bonds unless and until its net earnings shall have been at least equal during the twelve months next preceding the issue of any additional bonds to one and one-half times the interest on all of its outstanding mortgage indebtedness and on all additional bonds then proposed to be issued; that the term "net earnings" shall be deemed to mean the amount remaining after deducting from the gross earnings all taxes, maintenance charges, depreciation charges and operating expenses, except sinking fund charges and interest on indebtedness; and that it will pay to the trustee on May 1, 1918, and annually thereafter to and including the year 1946, an amount equivalent to 2 per cent of the aggregate par value of bonds issued under its mortgage dated May 1, 1917, as and for a sinking fund for the redemption of the bonds; now, therefore,

*It is hereby ordered* that Southern California Telephone Company be and it is hereby granted authority to execute a supplemental trust indenture substantially in the same form as the supplemental trust indenture marked Exhibit "A" and attached to the supplemental petition filed herein on February 14, 1918, provided that the approval herein given of said supplemental trust indenture is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said supplemental trust indenture as to such other legal requirements to which said supplemental trust indenture may be subject.

Dated at San Francisco, California, this eighteenth day of February, 1918.



## DECISION No. 5134.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES  
PUBLIC SERVICE CORPORATION FOR AUTHORITY TO RENEW  
CERTAIN NOTES.

Application No. 3494.

*Decided February 18, 1918.*

Applicant authorized to issue for a term of one year or less, eight promissory notes of an aggregate face value of \$103,395.15, such notes to be issued at their full face value for the purpose of renewing notes in a like amount now outstanding.

*B. N. Jefferson*, for Applicant.

BY THE COMMISSION.

## OPINION.

Midland Counties Public Service Corporation asks authority to issue for a period of one year or less notes for the purpose of refunding the following notes:

Date	Payee	Rate	Due date	Amount
10/23/13	A. C. Balch, trustee.....	6%	One day	\$35,000 00
11/15/17	Union National Bank, San Luis Obispo.....	7%	2/15/18	4,000 00
2/ 8/18	Union National Bank, San Luis Obispo.....	7%	5/18/18	6,000 00
3/ 1/18	First National Bank, Fresno.....	6%	5/30/18	2,500 00
4/26/18	First National Bank, Fresno.....	6%	7/26/18	2,500 00
3/ 7/18	United States Aluminum Company.....	6%	6/ 7/18	11,500 00
7/30/17	The J. G. White Engineering Corporation.....	6%	10/30/17	4,395 15
2/22/18	Wells Fargo Nevada National Bank.....	6%	5/22/18	37,500 00
Total .....				\$103,395 15

A public hearing was held by Examiner Westover at Los Angeles on February 6.

The Railroad Commission has heretofore authorized the issue of all of the foregoing notes except the \$35,000.00 payable to A. C. Balch, trustee, and the \$37,500.00 note payable to Wells Fargo Nevada National Bank. The issue of the \$35,000.00 note was referred to in Decision No. 996, dated September 24, 1913 (Vol. 3, Opinions and Orders of the Railroad Commission of California, p. 598). In that decision the commission authorized the company to purchase 700 shares of stock of Midland Counties Gas and Electric Company for \$35,000.00.

The testimony shows that the proceeds from all of the notes which applicant desires to refund have been expended for capital purposes or for refunding notes issued for such purposes.

Applicant desires to issue the notes for a period of one year or less from the date of this order or from the maturity of each of the notes which it desires to refund.

**ORDER.**

Midland Counties Public Service Corporation having applied to the Railroad Commission for authority to issue notes in the principal sum of \$103,395.15, a public hearing having been held and it appearing to the Railroad Commission that the money to be procured by such issue is reasonably required for the purposes specified in the order, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

*It is hereby ordered* that Midland Counties Public Service Corporation be and it is hereby authorized to issue its promissory notes for a term not exceeding one year for the purpose of refunding the following promissory notes now outstanding or heretofore authorized, to wit:

Payee	Rate	Due date	Amount
A. C. Baleb, trustee.....	6%	One day	\$35,000 00
Union National Bank, San Luis Obispo.....	7%	2/15/18	1,000 00
Union National Bank, San Luis Obispo.....	7%	5/18/18	6,000 00
First National Bank, Fresno.....	6%	5/30/18	2,500 00
First National Bank, Fresno.....	6%	7/26/18	2,500 00
United States Aluminum Company.....	6%	6/ 7/18	11,500 00
The J. G. White Engineering Corporation.....	6%	10/30/17	4,375 15
Wells Fargo Nevada National Bank.....		5/22/18	37,500 00
Total .....			\$103,395 15

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall be issued so as to net applicant not less than the face value thereof.

(2) The notes herein authorized to be issued shall be issued to the same payees at the same rates of interest and in the same amounts as the notes which applicant proposes to refund through the issue of the notes herein authorized.

(3) Applicant may, if it so desires, issue the notes for a period of less than one year from the date of this order, or from the date of the maturity of the notes to be refunded, and renew said notes from time to time provided that the combined terms of the notes herein authorized and those issued in renewal thereof shall not exceed one year.

(4) Applicant shall file with the Railroad Commission statements as required by the commission's General Order No. 24, which order, in so far as possible, is made a part of this order.

(5) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.

(6) The authority herein granted shall apply only to such notes as are issued on or before March 1, 1919.

Dated at San Francisco, California, this eighteenth day of February, 1918.

## DECISION No. 5141.

HORTSMAN, HAHN AND COMPANY, J. HOFMAN AND SONS COMPANY  
AND ANCHOR PACKING COMPANY

*vs.*

SOUTHERN PACIFIC COMPANY AND WELLS FARGO AND COMPANY  
EXPRESS.

Case No. 1158.

*Decided February 19, 1918.*

BY THE COMMISSION.

**ORDER DENYING APPLICATION FOR REHEARING.**

It appearing to the commission that there is no good reason why a rehearing should be had as applied for by complainants on February 8, 1918,

*It is hereby ordered* that said application for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this nineteenth day of February, 1918.

## DECISION No. 5147.

SEASIDE PARK PROPERTY OWNERS' ASSOCIATION

*vs.*

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 1186.

*Decided February 20, 1918.*

The Railroad Commission dismisses a complaint petitioning that defendant company be compelled to give a twenty-minute service to that portion of the city of Long Beach known as Seaside Park, an investigation showing that the line is not sufficiently patronized to warrant such frequent service and that the present service adequately cares for the small amount of traffic offered.

*Lionel A. Johnston*, for Complainant.

*Frank Karr*, for Defendant.

GORDON, *Commissioner*.

**OPINION.**

Seaside Park Property Owners' Association alleges that the infrequent street car service rendered by the Pacific Electric Railway Company to the portion of the city of Long Beach known as Seaside Park has seriously impaired the property values in such district and has resulted in a material loss of fares which would accrue to the Pacific Electric Railway if a more frequent service were to be given.

Complainant requests an order of the commission requiring a service on a twenty-minute headway and that a connection be made with the main-line train due to leave Los Angeles for Long Beach at 11.15 p.m.

The defendant filed its answer denying the allegations of the complaint and alleging that the present service is reasonable in that extra service is provided whenever the same is justified by the requirements of traffic, and that a reasonable service which should be placed in effect would be the elimination of all local service after the hour of 7.45 p.m. and the substitution of two through trains to Seaside Park, same to be a continuation of the main-line trains now leaving Los Angeles for Long Beach at 9.00 p.m. and 11.15 p.m., respectively.

A public hearing was held at Long Beach on February 8, 1918, the matter was duly submitted and is now ready for decision.

The so-called Seaside Park line of the Pacific Electric Railway Company is a portion of the Long Beach city line system. The line was originally constructed approximately fifteen years ago and was an extension of the Los Angeles-Long Beach line and formerly all through trains from and to Los Angeles ran to Seaside Park. The service as an extension of the main line was discontinued some years ago and the line was thereafter operated as a portion of the system of city line service in Long Beach. In the fall of the year 1915 a general reduction of service was made by the Pacific Electric Railway on all lines and the service on the Seaside Park line was changed from a twenty-minute headway during the entire day to a thirty-minute headway until 6.45 p.m. and hourly service thereafter until 11.45 p.m.

It is alleged that the infrequent car service during the evening hours has retarded the development of the section known as Seaside Park, although witnesses for complainant testified that real estate values had decreased about 40 per cent since the year 1915 and that property used for rental purposes had now to be rented for about 25 per cent less than could formerly be secured. A decrease in the value of property has also been made by assessment for tax levy by approximately 25 per cent. It was admitted that the depreciation in values was due to a number of causes and not entirely to the car-line schedules.

No automobile bus competition exists to interfere with the traffic of the Pacific Electric Railway on the Seaside Park line.

It was stated that approximately 400 to 500 families resided in the Seaside Park district and would receive the benefit of an increased car service, which was particularly necessary during the evening hours.

Checks made by the Pacific Electric Railway were presented as exhibits at the hearing and the travel during the evening when the hourly service is effective was as follows:

*September 24 to 29, 1917, Inclusive.*

Outbound From Long Beach.						
Time	Number of passengers					
	Sept. 24	Sept. 25	Sept. 26	Sept. 27	Sept. 28	Sept. 29
6.45 p.m. ....	5	7	3	4	3	1
7.45 p.m. ....	2	1	2	3	3	2
8.45 p.m. ....	11	15	9	0	7	11
9.45 p.m. ....	13	17	10	18	10	23
10.45 p.m. ....	1	7	15	3	4	11
11.45 p.m. ....	0	4	4	0	9	12
Daily average .....	5 $\frac{1}{3}$	8 $\frac{1}{3}$	7 $\frac{1}{6}$	12 $\frac{1}{3}$	6	10

Average per trip for period of check, 6 17/18.

Inbound to Long Beach.						
6.52 p.m. ....	0	6	0	0	8	5
7.52 p.m. ....	0	3	4	3	2	12
8.52 p.m. ....	0	2	0	1	1	5
10.02 p.m. ....	0	0	0	2	6	2
11.07 p.m. ....	0	2	1	1	6	0
11.55 p.m. ....	2	0	1	1	0	0
Daily average .....	1 $\frac{1}{3}$	2 $\frac{1}{6}$	1	1 $\frac{1}{3}$	1 $\frac{1}{6}$	4

Average per trip for period of check, 1 7/9.

A later check in the month of January, 1918, shows the following result:

*January 10 and 11, 1918.*

Outbound From Long Beach.				Inbound to Long Beach.			
Time	Number passengers			Time	Number passengers		
	Jan. 10	Jan. 11			Jan. 10	Jan. 11	
6.45 p.m. ....	0	0		6.52 p.m. ....	1	0	
7.45 p.m. ....	3	4		7.52 p.m. ....	1	3	
8.45 p.m. ....	3	10		8.52 p.m. ....	0	3	
9.45 p.m. ....	12	6		10.02 p.m. ....	2	1	
10.45 p.m. ....	8	6		11.07 p.m. ....	1	3	
11.45 p.m. ....	4	2		11.55 p.m. ....	2	3	
Daily average .....	5	4 $\frac{2}{3}$		Daily average .....	1 $\frac{1}{6}$	2 $\frac{1}{6}$	
Av. per trip for period of check, 4 $\frac{1}{2}$ .				Av. per trip for period of check, 12 $\frac{1}{3}$ .			

Rates between Long Beach and Los Angeles are also applicable to Seaside Park and on local travel in Long Beach all local lines transfer

to and from the Seaside Park line without additional fare. It appears that the Pacific Electric Railway Company contemplated an application to the commission for permission to abandon service on the Seaside Park line for the reason that it was an unproductive branch of their system and was not producing sufficient revenue to meet operating expenses, taxes and fixed charges. At present this line is serving the shipyard industry and special cars are run during the working hours to accommodate the workmen in that industry. The record of traffic during the evening hours is conclusive that the residents of the Seaside Park District do not patronize the car service during that period and there was no evidence presented on behalf of complainants that is convincing that any more patronage would be obtained if more frequent service were to be ordered during the evening hours.

The reduction of service to two round trips after 7.45 p.m., such trips to afford through service from Los Angeles, does not indicate that any particular revenue would be derived and the cost of operating the heavier cars used on the Los Angeles-Long Beach line to care for this service would closely approximate any saving to be derived from the reduction in hourly service now given by the use of the small local cars.

After careful consideration of all the evidence in this proceeding, I am of the opinion that the traffic on the Seaside Park line of the Pacific Electric Railway does not justify a change from the present thirty-minute headway during the day until 6.45 p.m. and hourly service thereafter until 11.45 p.m., to a straight twenty-minute headway throughout the entire day. Also that no material saving could be made by the defendant company if permission were granted to eliminate the hourly service after 7.45 p.m. and substitute two through trains from Los Angeles in lieu thereof. I shall, therefore, recommend that the complaint be dismissed and submit the following form of order:

#### ORDER.

A public hearing having been held in the above-entitled proceeding, the matter having been duly submitted and now ready for decision and the commission being fully advised and believing that the complaint should be dismissed for the reasons set forth in the preceding opinion,

*It is hereby ordered* that this complaint be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of February, 1918.

DECISION No. 5149.  
CITY OF RIVERSIDE  
vs.  
SOUTHERN PACIFIC RAILROAD COMPANY.

Case No. 1055.

*Decided February 21, 1918.*

Though upon complaint and investigation a bridge owned by defendant company in the city of Riverside is considered inadequate and unsafe, the Railroad Commission, during the present emergency, will not compel the railroad to incur the heavy expense incidental to the construction of a new bridge, other than the small expense necessary to put the present structure in a safe condition.

Defendant company directed, within ninety days, to make such necessary changes in the structure complained of that the passage for street traffic shall be widened from 10 feet 10 inches to 14 feet.

*A. H. Winder and L. C. Kelley, for Complainant.*

*Frank Karr, for Pacific Electric Railway Company.*

*Frank B. Austin, for Southern Pacific Railroad Company.*

*GORDON, Commissioner.*

**OPINION.**

In this complaint the city of Riverside alleges that a wooden bridge of the Southern Pacific Railroad Company (Southern Pacific Company) over North Main street in Riverside is dangerous to users of the highway because of impaired clearances, and asks the commission to require the railroad company to remove or reconstruct it so it will conform in appearance to the improved highway with concrete retaining walls which it spans, and a railroad bridge of the Riverside, Rialto and Pacific Railroad which is located about 290 feet distant from it and is built of reinforced concrete with a clear span over the roadway of 30 feet.

This case was heard and submitted on May 23, 1917, and has remained undecided because of advices received from the complainant that an agreement would probably be reached with the railroad company which would amicably settle the questions raised. It now appears that no such agreement is possible.

The bridge in question is a framed trestle with two concrete abutments and three timber bents resting on concrete pedestals. From face to face of abutments the distance is 43' 8" which is divided by the bents into four spans, two on the outside for sidewalks of 6' 10" each, and two in the center for driveways measuring 15' each, these distances being from the face of abutments and the centers of the timber bents. In the roadway the concrete pedestals, which are long enough to provide for a double track bridge, narrow the horizontal clearance to

10' 10". The bridge is very rarely used by the Southern Pacific Company, but the Pacific Electric can use it conveniently and negotiations were under way to transfer to that company when they were interrupted by the filing of this complaint.

North Main street is one of the main thoroughfares of Riverside and is heavily traveled. The city has recently spent \$35,000.00 in improving it, and I am entirely in sympathy with the wish of the people to have the present unsightly Southern Pacific bridge either removed or reconstructed to fit its surroundings. At the same time I do not believe the commission, during the present emergency, should require public utilities to spend more on improvements than is absolutely necessary and the issue here should be narrowed strictly to making this bridge safe, postponing other considerations during the duration of the war.

There is no doubt that the present clearances of 10' 10" on the roadway—1' 2" less than the minimum prescribed by the commission in its General Order No. 26 on the subject of Clearances—are unsafe for the operation of automobiles and motor trucks in a subway of this sort, and the railroad company should be required to widen them. It can readily be done without constructing a new bridge at an estimated expenditure of \$10,000.00. If the concrete pedestals under the roadway bents were cut down flush with the sides of the bents, and the braces on the sides of the bent were replaced by braces between the posts, the roadway could be made about 14 feet wide at a small expense. This increase of 3' 2" in the width of the roadway will remove the danger to a large extent, but as an additional safeguard the portion of the roadway pedestals built for the second track should be removed to shorten the length of the subway as much as possible.

I recommend the following form of order:

#### ORDER.

The city of Riverside having complained to the commission regarding a bridge of the Southern Pacific Railroad Company (Southern Pacific Company) over North Main street in Riverside and a public hearing having been held and the commission believing that the horizontal clearances should be increased and other changes made,

*It is hereby ordered* that ninety (90) days from the date of this order the Southern Pacific Company shall make the changes in this bridge set forth in the last paragraph of the foregoing opinion.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-first day of February, 1918.



## DECISION No. 5150.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON AND REMOVE FOUR THOUSAND TWO HUNDRED SIXTY-TWO FEET OF ITS RAILROAD TRACKS ON OCEAN AVENUE IN THE CITY OF SANTA MONICA, CALIFORNIA.

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Application No. 3343.

*Decided February 21, 1918.*

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When a railroad company is required by city ordinance to expend the sum of approximately \$86,000.00 in improving its trackage and paving a portion of its line upon which traffic is so light that it does not pay operating expenses, the Railroad Commission will authorize the abandonment of such trackage, in preference to authorizing an expenditure by a carrier already operating under a deficit, upon which there can be no hope of a return.

Applicant authorized to abandon portion of its Ocean avenue line in the city of Santa Monica, remove the tracks and overhead construction within sixty days from the effective date of order and pave its right of way, in accordance with city ordinance, within thirty days thereafter.

*Frank Karr*, for Applicant.

*V. R. McClucas*, city attorney, for city of Santa Monica, Protestant.

*GORDON*, *Commissioner*.

**OPINION.**

Pacific Electric Railway Company, a corporation, has applied to the Railroad Commission for an order authorizing the abandonment of its line of railroad in the city of Santa Monica located on the northwesterly side of Ocean avenue, between the southeasterly line of Montana avenue and the point of connection with its Santa Monica boulevard line just north of the southeasterly line of Santa Monica boulevard, a distance of 4,262 feet, for the reason that the traffic is extremely light and does not produce revenue equal to the cost of operation and that demands of the city of Santa Monica for the installation of paving with concrete base and asphalt wearing surface, and the substitution of grooved girder rail of a weight of 127 pounds to the yard will necessitate an expenditure for reconstruction of approximately seventy thousand (70,000) dollars.

A public hearing was held at Santa Monica on December 13, 1917, the matter was duly submitted and is now ready for decision.

The track proposed to be abandoned is a portion of the city lines operated by the Pacific Electric Railway in the city of Santa Monica and is also used by the so-called Westgate line of through cars from Los Angeles. The Ocean avenue line is located on the northwesterly side of Ocean avenue, between Santa Monica boulevard and Montana avenue. Ocean avenue between said points, except the portion occupied by the railroad of the applicant, is paved with concrete base paving with

asphalt wearing surface. The city of Santa Monica has demanded the paving of the portion of Ocean avenue occupied under franchise by the tracks of the applicant, such paving to be under the same specifications as were used in the paving of the highway portion of Ocean avenue, the demand being made under the provisions of section 2 of Ordinance 339 as passed by the city council of Santa Monica on September 4, 1900, granting to Los Angeles-Pacific Railroad, its successors and assigns, a franchise for the construction and operation of an electric railway on and along Ocean avenue for a period of fifty years, said section 2 reading as follows:

“Sec. 2. The track along the said streets and avenues aforesaid shall be laid even with the surface or with the established grade, and in case the city shall pave any street or avenue during the existence of this franchise, the said grantee and assigns shall pave in a similar manner those portions of the streets and avenues lying between the tracks and between the rails, and for two feet on each side thereof.”

The Pacific Electric Railway Company is the successor in interest to the Los Angeles-Pacific Railroad Company.

The installation of the type of paving required by the terms of special Ordinance No. 634, adopted by the city council of the city of Santa Monica on December 13, 1915, and by the terms of special Ordinance No. 621, adopted by the city council of the city of Santa Monica on October 11, 1915, would require the entire reconstruction of the double-track street railroad over the portion of Ocean avenue which is sought to be abandoned, and the substitution of grooved girder rail of a weight of 127 pounds to the yard for the present tee rail which weighs 60 pounds to the yard.

The estimated original value of the track and overhead construction proposed to be abandoned is \$24,320.00, the cost of removal is estimated at \$2,400.00, and the cost of paving the right of way occupied by the tracks proposed to be abandoned in conformity with the requirements of the ordinance of the city of Santa Monica is estimated at \$19,000.00; a total of \$45,720.00. The salvage value of the old material to be recovered is estimated at \$7,248.00, or a net expense of \$38,472.00, which would be charged as a loss if the tracks were to be abandoned.

If the tracks are to be rehabilitated and the paving installed as required by the city of Santa Monica an estimated expenditure of \$86,100.00 would be incurred and in view of the limited earnings and the deficit now alleged to result from the operation of this portion of the Pacific Electric lines, the applicant prefers to abandon service, remove the tracks and pave the abandoned right of way at an estimated

expense of \$38,472.00 rather than incur an expenditure of over \$86,000.00 upon which no return could be secured.

It appears that the traffic derived from the operation of the portion of the line proposed to be abandoned does not justify the investment of additional capital and checks of travel as submitted by the applicant show an average of but 40 passengers per day off and on the local cars on Ocean avenue between Santa Monica boulevard and Montana avenue, and an average of 7 passengers on and off the through cars operated from Los Angeles to Santa Monica via Westgate and Sawtelle. Results from a four-day check made in the month of October, 1917, indicate a collection of thirty-two tickets and the sum of \$2.90 in 5-cent cash fares. On the basis of crediting a full 5-cent fare for each passenger boarding or leaving the cars on the portion of track proposed to be abandoned, the total receipts properly creditable to this portion of the line would average \$1.12½ per day. The estimated daily operating expense is \$7.36, covering the forty round trips operated by the local cars and the estimated annual cost of maintenance of track and overhead structure for the year ending June 30, 1917, was \$2,515.00, the track maintenance including a considerable expenditure for renewal of track special work which is in the nature of an extraordinary expenditure.

It is apparent that the traffic handled over this portion of the line is unremunerative and does not equal the cost of operation and maintenance, taxes and fixed charges, or any return upon the value of the investment.

It appears that several efforts have been made by the applicant to effect a compromise with the city council of the city of Santa Monica, whereby some modification of the paving specifications might become effective, three of the suggested plans being as follows:

1. Take up track in Ocean avenue. Make track connection with Westgate line at Montana avenue, thence across to a connection with the Third street line.
2. Abandon and remove trackage on Ocean avenue including a portion of private right of way back to Fourth street. Build across Fourth street to existing track on Montana avenue, thereby affording connection with Third street line.
3. Construct connecting track across Ocean avenue via Idaho street.

None of the proposed compromises have been accepted by the city council of the city of Santa Monica, nor has any modification been secured as to the expensive type of paving required on Ocean avenue by special Ordinance No. 621 and special Ordinance No. 634, although an offer has been made by the applicant to install a cement curb line or to continue the maintenance and operation of the track without paving. Permission to abandon the track on Ocean avenue has also been denied by the city council of the city of Santa Monica.

It appears from the evidence in this proceeding that all possible efforts have been made by the applicant to make some adjustment that will permit of the continued operation of an unprofitable portion of their line as represented by the tracks on Ocean avenue, Santa Monica, as sought to be abandoned in this proceeding. It further appears that the continued maintenance and operation of the tracks is not justified by the patronage given by the traveling public and that it would be an economic loss to increase the capital investment necessary to rehabilitate the tracks in the manner necessary to comply with the ordinances of the city of Santa Monica requiring the expensive type of paving. In view of the limited amount of traffic handled over the portion of line sought to be abandoned, I can not recommend the substitution of any of the former compromises suggested by the applicant to the city council of the city of Santa Monica, as any of the proposed compromises would require an additional capital investment which is not justified by the present or prospective traffic to be handled. It appears that there is opposition by interested residents of all of the proposed compromise plans and also to the proposed abandonment.

The Pacific Electric Railway Company has for some years operated at a deficit. In view of such fact, and from the testimony in this proceeding, I am unwilling to recommend the expenditure of a very considerable sum of money, either for the rehabilitation of the present tracks here sought to be abandoned and as required by the expensive type of paving or for any compromise plan, when it is clearly apparent that such expenditure would be an economic waste and one upon which no return on the investment could reasonably be expected.

After careful consideration of all the evidence in this proceeding, I am of the opinion and find as a fact that the continued maintenance and operation of the tracks of the Pacific Electric Railway Company on Ocean avenue, Santa Monica, between Santa Monica boulevard and Montana avenue, is not justified in that sufficient patronage is not accorded such portion of the line by the traveling public, particularly in view of the present financial condition of the company.

I recommend that the application be granted subject to the conditions appearing in the following suggested form of order:

#### ORDER.

A public hearing having been held in the above-entitled proceeding, and the matter having been duly submitted and the commission being fully advised and basing its order on the finding of fact as set forth in the foregoing opinion,

*It is hereby ordered* that the application of the Pacific Electric Railway Company for permission to abandon and remove its double-track line of railroad on Ocean avenue in the city of Santa Monica,

between Santa Monica boulevard and Montana avenue, be and the same hereby is granted, subject to the following conditions:

1. The portion of Ocean avenue occupied by the right of way as granted by Ordinance No. 339 of the city council of the city of Santa Monica under date September 4, 1900, shall, after the removal of the tracks and overhead construction, be paved in accordance with the requirements of the city council of the city of Santa Monica.

2. The removal of the tracks herein authorized shall be accomplished within sixty days from the effective date of this order, and the paving of the right of way in accordance with the requirements of the city of Santa Monica shall be completed within thirty days thereafter.

The commission reserves the right to make such further orders in this proceeding as to it may appear right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-first day of February, 1918.

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DECISION No. 5152.

IN THE MATTER OF THE INVESTIGATION OF THE RAILROAD COMMISSION, UPON ITS OWN INITIATIVE, INTO THE FINANCIAL CONDITION OF THE UNITED RAILROADS OF SAN FRANCISCO.

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Case No. 610.

*Decided February 21, 1918.*

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Applicant authorized to draw from its depreciation fund, heretofore ordered established by the commission, the sum of \$150,000.00, to be used to reimburse its treasury covering a portion of capital expenditures made during the period July 1, 1915, to December 31, 1917.

BY THE COMMISSION.

**FOURTH SUPPLEMENTAL ORDER.**

Whereas on February 8, 1918, the United Railroads of San Francisco filed with the Railroad Commission a statement showing that it has expended for additions and betterments from July 1, 1915, to December 31, 1917, the sum of \$617,742.34; and

Whereas the Railroad Commission by Decision No. 2710, dated August 24, 1915, directed the United Railroads of San Francisco to establish a depreciation account amounting to \$550,000.00 per annum until July 30, 1918, or until a further order of the commission, said decision further providing that of the money so accumulated \$25,000.00

per month, or \$300,000.00 annually, should be used and expended only for the construction of additional facilities and extensions and for the fulfilling of franchise obligations or for the improvement of service or for such other services properly chargeable to a depreciation account as may be authorized by the commission; and

Whereas United Railroads of San Francisco now requests authority to use \$617,742.34, being a part of the amount deposited by it as a depreciation fund, to reimburse its treasury for the aforesaid capital expenditures; and

Whereas the engineering department of the Railroad Commission has not had sufficient time to check all of the reported expenditures, but it appears that at least \$600,000.00 of said expenditures represent proper capital charges; and

Whereas the Railroad Commission by Decision No. 2849, dated October 29, 1915, and Decision No. 4786, dated October 23, 1917, authorized the United Railroads of San Francisco to charge against the depreciation fund to be established under the terms of Decision No. 2710, the sum of \$450,000.00 for the purpose of reimbursing its treasury in part for capital expenditures from July 1, 1915, to August 31, 1917; and

Whereas it appears to the Railroad Commission that the sum of \$450,000.00 should be deducted from the aforesaid \$617,742.34, leaving \$167,742.34 of capital expenditures as reported by the company, for which its treasury has not been reimbursed; and

Whereas it appears to the Railroad Commission that the United Railroads of San Francisco may at this time draw upon the aforesaid depreciation fund to the extent of \$150,000.00 for the purpose of reimbursing its treasury in part because of the aforesaid reported capital expenditures of \$167,742.34; now, therefore,

*It is hereby ordered* that United Railroads of San Francisco be and it is hereby authorized to use \$150,000.00 of the moneys deposited in the depreciation fund directed to be set up by the Railroad Commission by its Decision No. 2710, dated August 24, 1915, to reimburse its treasury in part for expenditures for additions and betterments from July 1, 1915, to December 31, 1917, as set forth in statements filed with the Railroad Commission, said \$150,000.00 being in addition to the \$450,000.00 authorized to be expended by Decision No. 2849, dated October 29, 1915, and Decision No. 4786, dated October 23, 1917.

Dated at San Francisco, California, this twenty-first day of February, 1918.

## DECISION No. 5155.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR A REVISION OF ITS SCHEDULE OF RATES CHARGED FOR GAS IN THE CITY OF EUREKA, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA.

Application No. 3373.

*Decided February 25, 1918.*

It is held that a utility, while entitled to some relief from the present abnormally high costs of operating, should not expect to place the entire burden of increased expenses on its consumers, but should be willing to assume a fair portion itself. Revised schedule of rates established to become effective for meter readings on and after March 1, 1918, the present schedule being increased sufficient to cover increases in cost of oil but not increases in costs of other materials and supplies. *Chickering & Gregory*, by *Evan Williams*, for Applicant.

BY THE COMMISSION.

## OPINION.

Western States Gas and Electric Company in this proceeding applies for authority to increase its rates for artificial gas served in its Eureka division to the inhabitants of Eureka and vicinity in Humboldt County. Applicant bases its request for such increase on the fact that during the year 1918 it has already had to pay, and will probably have to continue to pay, \$1.85 per barrel for oil used in the manufacture of gas, whereas theretofore the cost of oil was \$1.00 per barrel. Applicant also alleges that the cost of labor and other materials has materially increased since the present rates were established.

A public hearing in this matter was held in Eureka before Examiner Westover on January 16, 1918.

The matter of both gas and electric rates in the Eureka division was carefully reviewed by the commission in connection with Application No. 1998 and Case No. 906, which matters were disposed of on November 6, 1916, by Decision No. 3852 (see Vol. XI, Opinions and Orders, Railroad Commission of California, page 891). The rates established at that time and which are now in effect are as follows:

*Gas Rates.*

First	1,000 cubic feet used per month-----	\$1.55 per 1,000 cubic feet
Next	1,000 cubic feet used per month-----	1.30 per 1,000 cubic feet
	All over 2,000 cubic feet used per month -----	1.05 per 1,000 cubic feet
	Minimum monthly guaranty, \$1.00 per meter.	
	Five per cent discount for payment within 10 days from date of bill.	

The evidence submitted in connection with aforesaid Application No. 1998 and Case No. 906 indicated that the earnings of the gas department of the Eureka division for the year 1915, before deducting

depreciation, were slightly less than 5½ per cent of the reproduction cost of the gas properties.

In the present application Western States Gas and Electric Company asks only for sufficient increase in rates to offset increases in its cost of oil, materials and labor since the present rates were established, and does not ask for any increase in its rate of return. This position was confirmed by counsel for applicant at the hearing herein.

Prior to January, 1918, applicant purchased oil under a contract at the price of \$1.00 per barrel f.o.b. Eureka. Since January 1, 1918, applicant has been unable to obtain a contract for oil under any circumstances, and the best quotation which it is able to obtain for a single cargo of 10,000 barrels is \$1.85 per barrel, f.o.b. Eureka.

Applicant's requirements are approximately 6,500 barrels of gas oil per year, and 29,531 barrels of fuel oil per year for the operation of its steam electric plant. Applicant has a total storage capacity of only 26,000 barrels.

The commission's engineering department prepared an estimate of the reproduction cost of the gas properties in the Eureka division, which is set forth in aforesaid Decision No. 3842. Bringing this estimate down to date by adding the cost of additions and betterments since that time, it appears that the reproduction cost of the gas properties in the Eureka division as of December 31, 1917, are as follows:

TABLE No. I.

*Estimated Reproduction Cost Eureka Gas Properties—Western States Gas and Electric Company.*

Reproduction cost found in Railroad Commission's Decision No. 3852.....	\$160,638 00
Additions and betterments to December 31, 1917.....	3,035 00
Reproduction cost estimated as of December 31, 1917.....	\$163,673 00

An analysis of operating expenses, revenue and sales for the years 1916 and 1917 is shown in the following table:

TABLE No. II.

*Operating Expenses, Revenue and Sales, 1916 and 1917—Eureka Gas Division—Western States Gas and Electric Company.*

	1916	1917
Operating expenses, exclusive of oil.....	\$10,146 13	\$10,695 97
Oil .....	6,431 79	6,326 81
Steam and electric power.....	1,359 40	1,406 49
Maintenance (labor and material).....	415 35	706 41
Taxes .....	1,653 80	1,860 79
Total expenses .....	\$20,006 47	\$20,996 50
Net for depreciation and return on reproduction cost....	7,456 57	5,935 08
Gross revenue .....	\$27,463 04	\$26,931 58
Rate for depreciation and return on reproduction cost...	4.56%	3.62%
Cubic feet gas sold .....	22,939,500	20,640,700



In making an estimate of probable expenses for the year 1918, the following increases in expenses other than the cost of oil must be taken into account. Applicant testified that it has recently been compelled to increase salaries of all of its employees approximately 15 per cent, and that the cost of other material such as purification supplies, pipe and fittings have increased from 20 to 90 per cent within the last year.

The relative importance of the cost of oil in proportion to other operating expenses may be seen from the following table:

TABLE No. III.

*Relative Cost of Oil to Other Expenses per Thousand Cubic Feet Gas Sold - Eureka Division - Western States Gas and Electric Company.*

	1916	1917
Operating and maintenance expense, exclusive of oil and taxes -----	52.0¢	62.1¢
Oil -----	28.0¢	30.7¢
Taxes -----	7.2¢	9.0¢
Cost of oil per barrel -----	\$1.00	\$1.00

The cost of oil in 1918 will be increased 85 per cent, making oil cost alone approximately 57 cents or 26.3 cents per 1,000 cubic feet sold increase over 1917 operations.

The commission realizes the difficulty under which public utilities are laboring on account of the present abnormally high cost of labor and materials of all kinds, and is desirous of affording them such relief as appears to be fair and reasonable under all the circumstances. The utilities on the other hand should, of course, not expect the public to bear all the burden of such abnormal conditions, and in the present instance applicant, recognizing its obligations in this regard, asks only for enough revenue to cover increased cost of oil and labor and taxes and does not expect any increase in its return on the value of its plant, although the rate of such return which it has hitherto received is considerably less than what might be considered a fair return under normal conditions. The rates herein established are calculated to accomplish approximately the result applied for.

Even if the commission were disposed to authorize still higher rates, it is very questionable as to whether the company would realize any greater net return therefrom inasmuch as the easy availability of cheap fuel in the form of waste material from the many lumber mills in the vicinity of Eureka operates as a very keen competitor with applicant's gas business. We do not believe, however, that the increase in rates herein authorized is any greater proportionately than recent increases in the cost of wood. These rates should not, therefore, result in

material decreases in the amount of gas which applicant will sell during the year 1918.

The matter was submitted at the hearing with the understanding that applicant should have the privilege of filing certain additional data. This data has now been filed and the matter is ready for decision.

#### ORDER.

Western States Gas and Electric Company having applied for authority to increase its gas rates in its Eureka division and a public hearing having been held and the matter being submitted and ready for decision, and the Railroad Commission finding as a fact that the gas rates charged by Western States Gas and Electric Company in its Eureka division are unjust and unreasonable in so far as they differ from the rates established herein, and that the rates established herein are just and reasonable rates in view of the circumstances as disclosed by the evidence herein, and basing its order upon these findings of fact and each finding of fact set forth in the opinion preceding this order.

*It is hereby ordered* that Western States Gas and Electric Company be and it is hereby authorized to charge and collect the following rates for artificial gas in its Eureka division:

#### *Rate.*

First      500 cubic feet or less per meter per month, \$1.00.  
 Next      1,500 cubic feet per meter per month, \$1.70 per 1,000 cubic feet.  
 Next      2,000 cubic feet per meter per month, \$1.45 per 1,000 cubic feet.  
 All over 4,000 cubic feet per meter per month, \$1.20 per 1,000 cubic feet.

*It is hereby further ordered* that Western States Gas and Electric Company shall file said rates with the commission on or before ten days from the date of this order, and said rates shall become effective as to the meter reading regularly taken on and after March 1, 1918.

Dated at San Francisco, California, this twenty-fifth day of February, 1918.

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#### DECISION No. 5157.

IN THE MATTER OF THE APPLICATION OF FRANK PELLISSIER AND E. S. MOORE FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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#### Application No. 3000.

*Decided February 25, 1918.*

Applicants granted a certificate permitting the construction and operation of a telephone and telegraph system in the counties of Mono and Inyo, provided a stipulation be filed to the effect that no value shall ever be claimed for any franchise or permit held by applicants, in excess of the actual original cost thereof.

*I. B. Potter*, for Applicants.

BY THE COMMISSION.

**OPINION.**

This is a petition by Frank Pellissier and E. S. Moore of Benton, Mono County, California, hereinafter referred to as the petitioners, asking that the Railroad Commission make its order declaring that public convenience and necessity require the exercise by petitioners of the rights and privileges granted to them by Ordinance No. 120 by the board of supervisors of Mono County, adopted on April 4, 1917, and of similar rights and privileges granted to them by Ordinance No. 159 by the board of supervisors of Inyo County, adopted on July 12, 1917, involving the construction and operation of lines for telephone and telegraph purposes, and the collection of rents, tolls and charges for the public use thereof.

A public hearing was held in Bishop, California, on August 22, 1917, in the matter of the Mono County franchise, and a further hearing was held in San Francisco on November 26, 1917, in the matter of the Inyo County franchise. No one appeared in opposition to the granting of this petition.

Ordinance No. 120 of the board of supervisors of Mono County, adopted on April 4, 1917, granted to the petitioners, their successors and assigns, for a period of fifty years from and after the fourth day of May, 1917, the right to erect, construct, operate and maintain a telephone and telegraph line, together with the necessary appurtenances thereto, and the right to receive and transmit telephone and telegraph messages and to collect rents, tolls and charges therefor, over, along and upon all of the public roads and highways, outside of incorporated cities and towns, in the following townships in Mono County, to wit:

Townships 1 N., 1 S., 2 S., 3 S., 4 S., range 32 east, and townships 4 S. and 5 S., range 33 east, Mount Diablo Base and Meridian.

Ordinance No. 159 of the board of supervisors of Inyo County, adopted on July 12, 1917, grants similar privileges to those granted by Ordinance No. 120 of Mono County, continuing for a period of twenty-five years from and after August 12, 1917, over, along and upon all of the public roads and highways, outside of incorporated cities and towns, in the following townships in Inyo County, to wit:

Townships 6 S. and 7 S., in range 33 east, Mount Diablo Base and Meridian.

Each of these ordinances contains provisions with reference to the location of poles and wires and to the payment, after a period of five years, of 2 per cent of the gross receipts to the respective counties. The franchises also contain other provisions to which it is not necessary here to refer.

The cost to petitioners of securing each of these franchises was as follows:

*Mono County franchise.*

Advertising (no publication of ordinance cost) .....	\$13 00
Price of franchise .....	5 00
Total .....	\$18 00

*Inyo County franchise.*

Advertising .....	\$38 00
Publication of ordinance .....	28 00
Payment for franchise .....	10 00
Total .....	\$76 00

Petitioners desire to construct a "single" or "grounded" toll line on poles of suitable dimensions, extending from the town limits of Bishop in Inyo County, through Chalfant, Hamill Station, Benton Station and Pellissier Ranch in Mono County, to a point on the California-Nevada state line opposite the town of Queens, the latter town being within the state of Nevada, and to establish public toll stations at each of these points, except at Bishop. It is also desired to construct, in addition to this toll line and on the same line of poles, a sufficient number of subscribers' lines to provide service for the various ranchers and others along its general route. It is proposed to connect these proposed lines at the town limits of the town of Bishop with the system of Interstate Telegraph Company, a corporation doing a general telephone and telegraph business, for service to and from Bishop and points beyond. Interstate Telegraph Company is willing to establish this connection with petitioner's lines.

The rates which petitioners desire to place in effect for toll switching between these various stations and for service for ranchers and others along this route are set forth in petitioners' schedules of proposed rates dated October 27, 1917, and filed with the Railroad Commission.

Petitioners state that there are no other telephone lines now operated by other public utilities with which the proposed lines will compete in any portion of the territory through which it is proposed to construct and operate their lines. They admit that there is now a telegraph line operated by The Western Union Telegraph Company along the line of railroad of the Nevada-California branch of Southern Pacific Company, and which will be paralleled for some distance by the proposed toll line, but state that the proposed line will not compete with this Western Union line since it (the Western Union line) is not used as a toll line.

Petitioners' reasons for desiring to construct and operate telephone lines within the territory heretofore described are that this territory is now without telephone or telegraph service, that it is remotely located from centers of population, not only in miles but in time required to

cover the distance, occasioned by poor roads and present available means of communication, that there is a considerable population throughout this territory, and that the proposed service is for the public convenience and necessity. Petitioners do not intend now to incorporate but propose to provide the necessary finances from their personal funds. They propose to personally construct the necessary lines, material for which it is estimated will cost approximately \$1,000.00 to \$1,200.00. Petitioners estimate that, due to weather and climatic conditions which are encountered in the mountains where the necessary poles must be secured, the proposed lines will not be completed before the latter part of the year 1918.

With reference to the rates which petitioners propose to make effective, the schedules above referred to include rates between points within California and the town of Queens within the state of Nevada. This commission is, of course, without jurisdiction to authorize rates for interstate business. As to the remaining rates provided for in the proposed schedules, it can not be determined whether they are just and reasonable until petitioners' lines shall have been in operation for a sufficient time to determine the result of applying them. They are similar to the rates now charged for similar service in adjacent territory, however, and we see no objection at this time to permitting them to be made effective.

Under the circumstances, this petition should, in our opinion, be granted, subject to the conditions contained in the following order:

#### ORDER.

Frank Pellissier and E. S. Moore, petitioners herein, having filed the above-entitled application asking the Railroad Commission to make its order as specified in the opinion herein, and public hearings having been held on said application,

The Railroad Commission hereby declares that public convenience and necessity require the exercise by Frank Pellissier and E. S. Moore, their successors and assigns, of the rights and privileges conferred by Ordinance No. 120 adopted by the board of supervisors of Mono County on April 4, 1917, entitled "An ordinance granting to Frank Pellissier and E. S. Moore, their successors and assigns, a right, franchise and privilege to erect, conduct, operate and maintain for a period of fifty years a telephone and telegraph line over, along and upon the public roads, streets and highways of the county of Mono, state of California, outside of incorporated cities and towns thereof."

And the Railroad Commission hereby further declares that public convenience and necessity require the exercise by Frank Pellissier and E. S. Moore, their successors and assigns, of the rights and privileges conferred by Ordinance No. 159 adopted by the board of supervisors of Inyo County on July 12, 1917, entitled "An ordinance granting to

Frank Pellissier and E. S. Moore the right, franchise and privilege to erect, operate and maintain for a period of twenty-five years a telephone and telegraph line consisting of poles and wires and all other apparatus and appliances necessary or convenient for transmitting telephone and telegraph messages over, along, upon all public highways in Townships 6 S. and 7 S., in range 33 east, M. D. B. & M., in Inyo County, state of California”;

Provided that the said Frank Pellissier and E. S. Moore shall first have filed with the Railroad Commission their stipulation agreeing for themselves, and their assigns, that they will never claim before the Railroad Commission of the state of California or any other public authority, any value for the rights and privileges conferred by Ordinance No. 120 of the board of supervisors of Mono County and by Ordinance No. 159 of the board of supervisors of Inyo County, above referred to, in excess of the amount actually paid to the county of Mono and the county of Inyo, respectively, as the consideration for the grant of such franchise, and shall have secured from this commission a supplemental order or orders herein declaring that such stipulation in form satisfactory to this commission has been filed.

*And it is hereby ordered* by the Railroad Commission that the applicants herein, Frank Pellissier and E. S. Moore, be and they hereby are permitted to publish, file and place in effect on or before the thirty-first day of December, 1918, a schedule of rates and charges heretofore filed with this commission on October 27, 1917, and more specifically referred to in the opinion preceding this order.

Provided that the authority herein granted to publish, file and place in effect the schedule of rates hereinabove provided for is not to be taken as approval of the rates referred to, since this commission has not as yet passed upon their reasonableness.

Dated at San Francisco, California, this twenty-fifth day of February, 1918.

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DECISION No. 5158.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN THE RATES CHARGED FOR GAS.

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Application No. 3294.

*Decided February 25, 1918.*

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The Railroad Commission holds that a utility is entitled to increases in its rates sufficient to cover certain, though not all, of the various increases in costs of operation due to present abnormal conditions. In the present instance the

increases in costs of oil, labor, and taxes are considered and the present schedules of rates revised to provide an additional return sufficient to cover recent increases in such items.

The sum of \$3,102,255.00 is found to be a reasonable rate base covering applicant's San Diego gas properties, excluding its Escondido plant, and the sum of \$56,000.00, computed on the 6 per cent sinking fund basis, a reasonable depreciation annuity.

For the small plant operated at Escondido, serving some 220 consumers, the new rate proposed by the company is established, which rate will yield a revenue only sufficient to cover operating expenses and a portion of the annual depreciation of such plant. New schedules to become effective for meter readings on and after February 28, 1918.

*Sweet, Stearns & Forward*, by *Frederic W. Stearns*, and *Chickering & Gregory*, by *Allan Chickering*, for Applicant.

*T. B. Cosgrove*, city attorney, for city of San Diego.

*Ray M. Harris*, city attorney, for city of National City.

*F. B. Andrews*, city attorney, for city of Chula Vista.

*A. M. Thompson*, city attorney, for city of Escondido.

*J. W. Puterbaugh*, assistant city attorney, for city of Coronado.

THELEN, *Commissioner*.

#### OPINION.

San Diego Consolidated Gas and Electric Company, hereinafter at times referred to as the gas company, asks authority to increase its rates for artificial gas in the entire territory served by it. This territory so served includes the cities or towns of San Diego, National City, Coronado, Chula Vista, East San Diego and La Mesa, all served from the gas plant in San Diego, and the city of Escondido served from an entirely separate gas plant located in Escondido.

The gas company asks authority to increase its rates to reimburse it for increased operating expenses due to the following causes:

- (1) Increased cost of oil.
- (2) Increased cost of labor.
- (3) Increased taxes.

Although the gas company is also paying increased costs for other items of operating expenses, such as materials and supplies, its request for increased rates is specifically limited to the foregoing three items, of which the increased cost of oil constitutes by far the largest single item.

A public hearing herein was held in San Diego on January 7, 1918. It was stipulated that L. S. Ready, acting gas and electrical engineer of the Railroad Commission, should prepare a report, a copy whereof should then be transmitted to each party of record herein. This report has been prepared and filed and a copy mailed to all parties. It appearing that no party desires a further hearing, this proceeding has been submitted and is now ready for decision.

The following documents filed subsequent to the hearing have been given exhibit numbers as indicated and constitute part of the record:

Exhibit No. 3 of gas company—Copy oil agreement dated October 4, 1917, between Union Oil Company of California and San Diego Consolidated Gas and Electric Company.

Exhibit No. 4 of gas company—Copy of notice dated January 12, 1918, from Union Oil Company of California to San Diego Consolidated Gas and Electric Company suspending contract of October 4, 1917.

Exhibit No. 5 of gas company—Schedule of proposed rates.

Exhibit No. 6 of gas company—Cost of gas service to Coronado Tent City in 1915.

Exhibit No. 1 of Railroad Commission—Report of Mr. L. S. Ready.

Both the gas and the electric business of the gas company were reviewed in detail by this commission in Decision No. 3839 made on November 3, 1916, in Application No. 1925 and Case No. 874 (Vol. 11, Opinions and Orders of the Railroad Commission of California, p. 735), to which decision reference is hereby made. The Railroad Commission in said proceeding established the entire schedule of rates to be charged by the gas company for both gas and electric energy. The Railroad Commission found that the rates for gas were yielding a return of approximately 6 per cent on a fair rate base. With the concurrence of the gas company, the gas rates then being charged were permitted to remain effective.

In this opinion the discussion will first be confined to the gas company's southern district, which includes all the territory served with gas except Escondido. The Escondido situation will then be separately considered.

The subject matter of this opinion will now be discussed under the following heads:

1. Rate Base.
2. Depreciation Annuity.
3. Maintenance and Operating Expenses.
4. Electric Department Earnings.
5. Rates.
6. Escondido Situation.

#### 1. Rate Base.

Table No. I shows the operative gas capital as of December 31, 1915, as shown by Table No. VIII in said Decision No. 3839, with the additions and betterments subsequent thereto, including estimated additions and betterments to July 1, 1918.



TABLE No. I.

*Operative Gas Capital, December 31, 1915, to July 1, 1918—San Diego Consolidated Gas and Electric Company.*

	Capital as of Dec. 31, 1915. See Dec. 3829, Table No. VIII	Additions and better- ments, 1916	Capital as of Dec. 31, 1916
Production capital .....	\$741,908 00	\$55,961 50	\$797,869 50
Transmission and distribution .....	1,758,863 00	68,608 00	1,827,471 00
General .....	155,071 00	41,078 00	196,149 00
<b>Totals .....</b>	<b>\$2,625,842 00</b>	<b>\$165,647 50</b>	<b>\$2,791,489 50</b>
	Additions and betterments, first eleven months, 1917	Capital as of Nov. 30, 1917	Estimated additions and betterments to July 1, 1918
Production capital .....	\$26,457 50	\$791,327 00	\$14,000 00
Transmission and distribution .....	68,008 00	1,895,479 00	35,000 00
General .....	17,000 00	213,449 00	10,000 00
<b>Totals .....</b>	<b>\$111,765 50</b>	<b>\$2,903,255 00</b>	<b>\$59,000 00</b>

Additions and betterments given to nearest 50 cents.

The foregoing table does not include the additional investment made by the gas company to serve gas to Camp Kearny. This investment is reported to have been \$126,628.80 to November 30, 1917. The uncertainty with reference to the Camp Kearny situation is such that in so far as possible, it is being eliminated herein.

Table No. I also does not include the Escondido gas investment, which will be separately considered hereinafter.

Table No. II shows the average operative gas capital for the years 1915, 1916 and 1917 with an estimate for 1918 and includes appropriate allowances for materials and supplies and working capital and estimated depreciation annuities.

TABLE No. II.

*Operative Gas Capital—Estimated Average for 1915, 1916, 1917 and 1918—Depreciation Annuities—San Diego Consolidated Gas and Electric Company.*

	Average capital, 1915	Average capital, 1916	Average capital, 1917	Estimated average capital, 1918
Production capital .....	\$700,064 00	\$739,889 00	\$781,098 00	\$808,327 00
Transmission and distribution .....	1,717,253 00	1,793,167 00	1,861,475 00	1,930,479 00
General .....	150,935 00	175,601 00	204,799 00	223,449 00
<b>Subtotals .....</b>	<b>\$2,568,252 00</b>	<b>\$2,708,657 00</b>	<b>\$2,847,372 00</b>	<b>\$2,962,255 00</b>
Materials and supplies .....	\$35,000 00	\$35,000 00	\$35,000 00	\$50,000 00
Working cash capital .....	60,000 00	60,000 00	60,000 00	90,000 00
<b>Totals .....</b>	<b>\$2,663,252 00</b>	<b>\$2,803,657 00</b>	<b>\$2,942,372 00</b>	<b>\$3,102,255 00</b>
Estimated depreciation annuity	\$18,000 00	\$51,600 00	\$54,350 00	\$56,600 00

The sum of \$3,102,255.00 shown in the last column of Table No. II is a just and reasonable rate base for the purpose of this proceeding.

### 2. Depreciation Annuity.

The sum of \$56,600.00 shown in the last column of Table No. II is a just and reasonable amount to be allowed herein as depreciation annuity. It is computed on the 6 per cent sinking fund basis, which basis was agreed upon by the gas company and the railroad company's engineers in said Application No. 1925 and Case No. 874.

### 3. Maintenance and Operating Expenses.

Table No. III shows the gas company's revenues and expenses from its gas business in 1915, 1916 and the twelve months ending November 30, 1917, together with the gas company's estimate of expenses for 1918 as shown in gas company's Exhibit No. 2, and also the per cent of return earned on a fair rate base in 1915, 1916 and the twelve months ending November 30, 1917.

TABLE No. III.

*Operating Revenue and Expense--Gas Department, San Diego Consolidated Gas and Electric Company.*

	1915	1916	Twelve months ending Nov. 30, 1917	Company's estimate, 1918
Production expense -				
Other than oil and electricity	\$59,920 65	\$63,012 99	\$68,871 96	\$82,855 00
Oil .....	127,883 86	120,368 05	128,762 01	299,292 00
Electricity .....	7,020 97	8,839 00	11,819 27	16,652 00
Totals .....	\$194,825 48	\$192,220 04	\$209,453 24	\$398,799 00
Distribution expense .....	73,015 13	58,892 72	66,243 93	73,290 00
Commercial .....	27,734 57	27,623 98	29,081 69	33,515 00
General .....	77,969 96	67,223 81	68,101 89	66,704 00
Totals .....	\$373,575 14	\$315,870 55	\$372,880 75	\$572,808 00
Taxes .....	35,252 74	37,183 00	42,129 68	49,110 00
Uncollectible bills .....	2,451 59	*2,500 00	2,356 82	3,000 00
Totals .....	\$411,279 47	\$385,553 55	\$417,367 25	\$624,918 00
Gross revenue .....	625,476 05	620,319 89	658,740 41	
Net for interest and depreciation .....	\$214,196 58	\$234,766 34	\$241,373 16	
Depreciation .....	18,900 00	51,600 00	51,350 00	
	\$165,296 58	\$183,166 34	\$187,023 16	
Per cent return on estimated rate base .....	6.20	6.53	6.22	

\* Estimate.  
Includes Camp Kearny.

In Table No. III the returns for the twelve months ending November 30, 1917, include the Camp Kearny business. The gas company's estimate for 1918 also includes items of estimated increased expense in addition to fuel, labor and taxes. The table is inserted for comparative purposes. It will be observed that for the twelve months ending November 30, 1917, including the Camp Kearny business, the gas department earned a return of 6.22 per cent on a fair rate base.

Table No. IV shows the revenue from the principal classes of gas business and statistics as to amount of oil used, the send-out and sales of gas, the gas unaccounted for, the average number of consumers, the sales per consumer and the total duty of oil in 1915 and 1916 and for the twelve months ending November 30, 1917, both including and excluding the Camp Kearny business.

TABLE No. IV.

*Revenues and Operating Statistics—Gas Department, San Diego Consolidated Gas and Electric Company.*

	1915	1916	Total, twelve months ending Nov. 30, 1917	Twelve months ending Nov. 30, 1917, Excluding Camp Kearny
<b>Revenue—</b>				
Municipal street lighting.....	\$184 50	\$162 00	\$162 00	\$162 00
Domestic and commercial heat, light and power.....	614,228 14	606,657 00	641,454 92	623,364 23
Prepaid gas .....	9,061 60	7,391 82	6,990 04	6,990 04
Total operative .....	\$623,474 24	\$614,210 82	\$648,606 96	\$630,516 27
Miscellaneous other revenue....	2,001 81	6,109 07	10,133 45	10,133 45
	\$625,476 05	\$620,319 89	\$658,740 41	\$640,649 72
Revenue per 1,000 cu. ft. sold (not including miscellaneous)	95¢	90.8¢	88.2¢	90.1¢
<b>Statistics—</b>				
Oil used (barrels):				
For gas .....	115,187	157,006	174,544	
For steam .....	28,771	23,616	24,682	
	173,958	180,622	199,226	190,176
Total send-out—M cu. ft.....	783,709.0	823,362.0	889,842.0	849,422.0
Total sales—M cu. ft.....	655,902.4	677,582.3	734,958.0	700,522.0
Unaccounted for .....	127,606.6	145,779.7	154,884.0	148,900.0
Per cent unaccounted for.....	16.3	17.7	17.4	17.4
Average number of consumers.	21,596	21,585	21,780	21,730
Sales per consumer—cu. ft.....	30,400	31,400	33,700	32,250
Total duty of oil.....	9,323	9,214	9,403	9,403

Table No. IV shows that for the twelve months ending November 30, 1917, the revenue derived by the gas company from each 1,000 cubic

feet of gas sold, not including miscellaneous revenue, was 88.2 cents including Camp Kearny business and 90.1 cents excluding Camp Kearny business.

The total sales of gas during these twelve months excluding the Camp Kearny business, were 700,522,000 cubic feet.

I shall now consider the estimated increased operating expenses for 1918 for

- (a) Oil;
- (b) Labor; and
- (c) Taxes.

*(a) Increased cost of oil.*

For oil the gas company paid in 1916 and 1917 75 cents per barrel delivered at San Diego, under a contract which expired on December 31, 1917. On October 4, 1917, Union Oil Company of California entered into a new contract with the gas company under which the latter company is obligated to pay \$1.60 per barrel for oil purchased during 1918. On January 12, 1918, the Union Oil Company served notice on the gas company, increasing the cost to \$1.62 per barrel.

If the 1918 price of oil had been in effect in 1917 and the unaccounted for gas had been 16.5 per cent the gas company would have paid for this item alone the additional sum of \$144,300.00, being 20.6 cents for each thousand cubic feet of gas sold, more than it paid in 1917. An additional item of \$6,380.00 represents the increased cost, due to oil, of the electricity used in the gas department.

*(b) Increased cost of labor.*

While the gas company has increased the wages paid to its employees, it has dispensed with a number of employees, so that the pay rolls have not materially increased. Further increases in wages, however, may not unreasonably be expected, especially among the lower paid employees. I shall recommend an additional allowance of \$7,500.00 under this head.

*(c) Increased taxes.*

The gas company now pays to the state a tax of 5.6 per cent of its gross revenue, as contrasted with 5.25 per cent paid prior to the act of May 11, 1917 (Stats. 1917, p. 336). The total increased payment for state taxes in 1917, if the present rate had then been effective, would have been approximately \$10,500.00, or 1.15 cents per thousand cubic feet of gas sold.

The increased cost of oil, labor and state taxes in 1917 if 1918 prices had been effective would have been as follows:

Increased cost of oil—700,522 M cubic feet at-----	\$0.2060	\$144,308 00
Increased cost of electricity at-----	.0091	6,380 00
Increased cost of labor-----	.0107	7,500 00
Increased cost of taxes-----	.0150	10,499 00
Total increase -----	\$0.2408	\$168,687 00

If the sales of gas in 1918, exclusive of Camp Kearny, increase 6 per cent over the sales of 1917, the increased revenue will exceed the increased cost for the additional gas approximately \$11,298.00, thus reducing the total increased cost for 1918 to \$157,389.00, being 21.2 cents per thousand cubic feet sold. Adding this increased cost to the average revenue of 90.1 cents per thousand cubic feet in 1917 would give an average necessary revenue for 1918 of \$1.113 per thousand cubic feet sold.

If the sales of gas in 1918, exclusive of Camp Kearny, increase 10 per cent over the sales of 1917, as seems more likely, the increased revenue will exceed the increased cost for the additional gas approximately \$27,530.00, thus reducing the total increased cost for 1918 to \$141,157.00, being 18.3 cents per thousand cubic feet sold. Adding this increased cost to the average revenue of 90.1 cents per thousand cubic feet in 1917 would give an average necessary revenue for 1918 of \$1.084 per thousand cubic feet sold.

The foregoing costs assume a return of approximately 6 per cent on the fair value of the gas company's operative gas property.

#### 4. Electric Department Earnings.

At the hearing herein, inquiry was made as to whether the earnings from the gas company's electric department in 1918 might not be sufficient to take care of a portion of the anticipated deficit from the gas department.

Without at this time examining the electric situation in detail, attention should be directed to the fact that at \$1.62 per barrel of oil in 1918 as contrasted with 75 cents in 1917, the increased cost of the oil alone used in the electric department in 1917 would be \$115,000.00. This one item alone would have reduced the 1917 return on the fair value of the property used and useful in the electric department to slightly less than 8 per cent.

#### 5. Rates.

The present general rates of the gas company for gas sold in its San Diego District are as follows:

- First 25,000 cubic feet per month, \$1.00 per thousand cubic feet.
- Next 25,000 cubic feet per month, 90 cents per thousand cubic feet.
- Next 25,000 cubic feet per month, 80 cents per thousand cubic feet.
- All over 75,000 cubic feet per month, 70 cents per thousand cubic feet.
- A discount of 10 cents per thousand cubic feet is allowed for prompt payment.
- Minimum bill, 50 cents per meter per month.

At Tent City, Coronado, where prepay meters are installed, the rate is \$1.50 per thousand cubic feet of gas. When the service has been used twelve consecutive months, the company will refund to the customer the difference between the amount paid and the amount which would have been paid under the general rates next hereinbefore set forth.

The gas company filed herein as gas company's Exhibit No. 5 a proposed schedule of new rates, including general gas service, Coronado Tent City and Municipal Area. These proposed rates are set forth in Table No. V.

TABLE No. V.

**New Gas Rates Proposed by San Diego Consolidated Gas and Electric Company.***1. General Gas Rates.*

## SAN DIEGO DISTRICT.

Character of service.

This rate covers all service furnished and all classes of customers.

Rates.	Gross Net	
First 500 cubic feet or less per month.....	\$0.80	\$0.75
Next 4,500 cubic feet per month.....	1.20	1.10 per thousand cubic feet
Next 10,000 cubic feet per month.....	1.10	1.00 per thousand cubic feet
Next 15,000 cubic feet per month.....	1.00	.90 per thousand cubic feet
Next 20,000 cubic feet per month.....	.90	.80 per thousand cubic feet
Next 25,000 cubic feet per month.....	.80	.70 per thousand cubic feet
All over 75,000 cubic feet per month.....	.70	.60 per thousand cubic feet

Prompt payment discount.

All bills are rendered at the gross rate shown above. A discount reducing the bill to the net rate above shown is made for prompt payment in case bills are paid on or before date due as shown on bill rendered.

Minimum charges.

The minimum charge is 75 cents per meter per month for each meter set.

Term.

Application for service only required. No definite contract period.

Terms and conditions.

See Rules and Regulations C. R. C. Sheet No. 28 G to C. R. C. Sheet No. 55 G.

*2. Coronado Tent City.*

## SPECIAL RATE.

Character of service.

This rate applies only to meters set at Coronado Tent City. The additional charge being made to offset the cost of installing and removing meters used for a period of less than twelve months during the year. If meters are used for a period of twelve consecutive months, then at the expiration of the twelve months the company will refund to the customer the difference between the amount paid and the regular schedule of rates for gas for San Diego and vicinity.

Rates.

All gas furnished per meter per month \$2.35 gross, \$2.25 net per thousand cubic feet. After service has been used twelve consecutive months, then at the

expiration of the twelve months the company will refund to the customer the difference between the amount paid and the following rates:

	Gross	Net
First 500 cubic feet or less per month	\$0.80	\$0.75
Next 4,500 cubic feet per month	1.20	1.10 per thousand cubic feet
Next 10,000 cubic feet per month	1.10	1.00 per thousand cubic feet
Next 15,000 cubic feet per month	1.00	.90 per thousand cubic feet
Next 20,000 cubic feet per month	.90	.80 per thousand cubic feet
Next 25,000 cubic feet per month	.80	.70 per thousand cubic feet
All over 75,000 cubic feet per month	.70	.60 per thousand cubic feet

Prompt payment discount.

All bills are rendered at the gross rate shown above. A discount reducing the bill to the net rate above shown is made for prompt payment in case bills are paid on or before date due as shown on bill rendered.

Minimum charges.

The minimum charge is 75 cents per meter per month for each meter set.  
Term.

Application for service only required. No definite contract period.

Terms and conditions.

See Rules and Regulations C. R. C. Sheet No. 28 G to C. R. C. Sheet No. 55-G.

### 3. *Municipal Ares.*

#### SAN DIEGO DISTRICT.

Character of service.

This service applies to three municipal gas ares located in La Jolla. The lamps burn all night every night, the company turning lamps on and off. These lamps are the Humphrey Gas Ares of the outdoor type.

Lamp service.

The company renews all lamps, globes, and mantles.

Rate.

The rate is \$4.50 per lamp per month.

Term.

Term of contract, one year or until canceled.

Terms and conditions.

See Rules and Regulations C. R. C. Sheet No. 28 G to C. R. C. Sheet No. 55-G.

The general gas rates proposed by the gas company for the San Diego district would yield an average rate, including forfeited discounts of \$1.16 per thousand cubic feet of gas, a rate about 6 cents in excess of the return which should be allowed.

The rates which I find to be just and reasonable are set forth in the order herein. The general rates for the San Diego district differ from those proposed by the company as follows:

(a) The rate for 500 cubic feet or less per month is reduced from 80 cents gross and 75 cents net to 70 cents gross and 60 cents net.

(b) Discounts for prompt payment are eliminated on those portions of monthly bills which run over 15,000 cubic feet per month.

The rates for Coronado Tent City set forth in the order herein differ from those proposed by the company in that the rate established is

\$1.60 gross and \$1.50 net per thousand cubic feet for all gas furnished instead of \$2.35 gross and \$2.25 net as proposed. The rate proposed seems too high to hold the business.

#### 6. Escondido Situation.

The gas company purchased the Escondido gas plant from Escondido Utilities Company in 1917. The plant supplies only 220 consumers.

The gas company reports an investment of \$18,437.00 in this property.

The company's estimate of operating expenses alone for 1918 is \$8,309.40. The average cost per thousand cubic feet of gas sold, exclusive of interest, depreciation and head office charges, is estimated for 1918 at \$1.335 per thousand cubic feet. The revenue under existing rates has been \$1.21 per thousand cubic feet. In other words, the present rates will not even yield operating expenses in 1918, to say nothing of a return on the investment and a depreciation annuity.

The gas rates now in effect in Escondido are as follows:

Fifty cents per customer per month plus—

First 10,000 cubic feet per month, \$1.00 per thousand cubic feet

All over 10,000 cubic feet per month, 80 cents per thousand cubic feet

The gas company has suggested in gas company's Exhibit No. 5 the following new rate:

First 300 cubic feet or less per month----- \$1.25

Next 9,700 cubic feet per month----- 1.35 per thousand cubic feet

All over 10,000 cubic feet per month----- 1.10 per thousand cubic feet

Discount of 25 cents on the first 300 cubic feet or less per month and 10 cents per thousand cubic feet on all additional gas consumed per month, for prompt payment.

Minimum bill, \$1.00 per meter per month.

It is evident that it will be impossible for the gas company to derive from its Escondido plant a revenue sufficient to pay a return on its investment.

I find that the following revision of the rate schedule proposed by the gas company is, under all the circumstances, just and reasonable for gas sold in the Escondido district:

	Gross	Net
First 500 cubic feet or less per meter per month-----	\$1 10	\$1 00
Next 4,500 cubic feet per meter per month-----	1 50	1 40
Next 5,000 cubic feet per meter per month-----	1 35	1 25
All over 10,000 cubic feet per meter per month-----		1 00

The net rate is for prompt payment on or before the date due as shown on bill rendered.

This schedule will net the gas company, as reported by Mr. Ready, approximately an average rate of \$1.55 per thousand cubic feet per month, or a total revenue of approximately \$8,400.00 in 1918, being



sufficient to cover operating expenses and part of the depreciation annuity.

I submit herewith the following form of order:

#### ORDER.

San Diego Consolidated Gas and Electric Company having filed its application for authority to increase the rates charged by it for gas sold to its patrons in San Diego County, California, a public hearing having been held, this proceeding having been submitted and being now ready for decision,

The Railroad Commission hereby finds as a fact that the rates charged by San Diego Consolidated Gas and Electric Company for gas are unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing findings of fact and on the other findings which are contained in the opinion which precedes this order,

The Railroad Commission hereby authorizes San Diego Consolidated Gas and Electric Company to file with this commission, effective on all regular meter readings on and after February 28, 1918, and thereafter to charge the following rates for gas sold by it of the quality heretofore specified in its rate schedules:

#### SCHEDULE "A."

##### *General Gas Service.*

#### SAN DIEGO DISTRICT.

##### Character of service.

This rate covers all service furnished and all classes of customers and rates.

Rates.	Gross Net	
First 500 cubic feet or less per month--	\$0.70	\$0.60
Next 4,500 cubic feet per month-----	1.20	1.10 per thousand cubic feet
Next 10,000 cubic feet per month-----	1.10	1.00 per thousand cubic feet
Next 15,000 cubic feet per month-----		.90 per thousand cubic feet
Next 20,000 cubic feet per month-----		.80 per thousand cubic feet
Next 25,000 cubic feet per month-----		.70 per thousand cubic feet
All over 75,000 cubic feet per month----		.60 per thousand cubic feet

Prompt payment discount.

All bills are rendered at the gross rate shown above. A discount reducing the bill to the net rate above shown is made for prompt payment in case bills are paid on or before date due as shown on bill rendered.

Term.

Application for service only required. No definite contract period.

Terms and conditions.

See Rules and Regulations C. R. C. Sheet No. 28-G to C. R. C. Sheet No. 55 G.

#### SCHEDULE "B."

##### *Coronado Tent City--Special Rate.*

#### SAN DIEGO DISTRICT.

##### Character of service.

This rate applies only to meters set at Coronado Tent City. The additional charge is made to offset the cost of installing and removing meters used for a

period of less than twelve months during the year. If meters are used for a period of twelve consecutive months, then at the expiration of the twelve months the company will refund to the customer the difference between the amount paid and the regular schedule of rates for San Diego and vicinity.

Rates.

All gas furnished per meter per thousand cubic feet per month, \$1.60 gross, \$1.50 net.

Prompt payment discount.

All bills are rendered at the gross rate shown above. A discount reducing the bill to the net rate above shown is made for prompt payment in case bills are paid on or before date due as shown on bill rendered.

Minimum charges.

The minimum charge is \$1.10 per month or portion thereof, subject to 10 cents discount for prompt payment.

Term.

Application for service only required. No definite contract period.

Terms and conditions.

See Rules and Regulations C. R. C. Sheet No. 28-G to C. R. C. Sheet No. 55-G.

#### SCHEDULE "C."

##### *General Gas Service--Escondido.*

Character of service.

This rate covers all service furnished and all classes of customers.

Rates.	Gross	Net
First 500 cubic feet or less per meter per month.....	\$1 10	\$1 00
Next 4,500 cubic feet per meter per month.....	1 50	1 40
Next 5,000 cubic feet per meter per month.....	1 35	1 25
All over 10,000 cubic feet per meter per month.....		1 00

Prompt payment discount.

All bills are rendered at the gross rate shown above. A discount reducing the bill to the net rate shown above is made for prompt payment in case bills are paid on or before date due as shown on bill rendered.

Terms.

Application for service only required. No definite contract period.

Terms and conditions.

See Rules and Regulations C. R. C. Sheet No. 28-G to C. R. C. Sheet No. 55-G.

#### SCHEDULE "D."

##### *Municipal Arcs--Special Rates.*

##### SAN DIEGO DISTRICT.

Character of service.

This service applies to three municipal gas arcs located in La Jolla. The lamps burn all night every night, the company turning lamps on and off. These lamps are the Humphrey gas arcs of the outdoor type.

Lamp service.

The company renews all lamps, globes and mantles.

Rate.

The rate is \$1.50 per lamp per month.

Term.

Term of contract, one year or until canceled.

Terms and conditions.

See Rules and Regulations C. R. C. Sheet No. 28-G to C. R. C. Sheet No. 55-G.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California .

Dated at San Francisco, California, this twenty-fifth day of February, 1918.

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DECISION No. 5159.

IN THE MATTER OF THE APPLICATION OF THE KINGS COUNTY CANAL COMPANY FOR PERMISSION TO ENTER INTO AN AGREEMENT WITH THE TULARE LAKE WATER COMPANY, A MUTUAL WATER COMPANY.

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Application No. 3396.

*Decided February 25, 1918.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Kings County Canal Company and Tulare Lake Water Company having made and filed their written request that the application herein be dismissed,

*It is hereby ordered* that the application herein be and the same hereby is dismissed.

Dated at San Francisco, California, this twenty-fifth day of February, 1918.

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DECISION No. 5160.

IN THE MATTER OF THE APPLICATION OF SAN JOSE RAILROADS FOR PERMISSION TO ABANDON THE NARROW GAUGE LINE ON HOBSON STREET IN THE CITY OF SAN JOSE, CALIFORNIA.

Application No. 2361.

CITY OF SAN JOSE

vs.

SAN JOSE RAILROADS.

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Case No. 1115.

*Decided February 26, 1918.*

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The commission will not direct a street railway company to broad-gauge a present narrow-gauge line operated a distance of .61 miles, when the costs of such improvements would approximate \$7,749.00 and the trackage in question is already operated at a direct loss of 12.73 cents per car mile. Complaint of the city of San Jose dismissed.

Application of the San Jose Railroads to discontinue operation and remove its tracks on the narrow-gauge line which it operates on Hobson street in the city of San Jose, from First to Walnut streets, held in abeyance for a period of thirty days pending the submission and approval of applicant's plan to operate an auto bus stage in lieu of the line which it proposes to abandon.

*Leib & Leib*, by *S. F. Leib*, for San Jose Railroads.

*Earl Lamb*, city attorney, and *T. H. Reed*, city manager, for city of San Jose, Complainant.

*Mrs. Addie Reid*, Protestant.

GORDON, *Commissioner*.

#### OPINION.

San Jose Railroads, a corporation, applies for an order of this commission permitting applicant to discontinue service on Hobson street in the city of San Jose, from First street to Walnut street, and to remove its rails and appurtenances therefrom.

City of San Jose, a municipal corporation, complains that the equipment used and service rendered by the San Jose Railroads on the Hobson street line in the city of San Jose are inadequate and requests that the San Jose Railroads be required to lay and maintain a broad-gauge track on Hobson street, to operate a modern car thereupon and to furnish safe and adequate facilities and service along said street.

An answer was filed by defendant denying the material allegations of the complaint and alleging that the receipts from traffic on the Hobson street line do not justify the broad-gauging nor the continued operation of the present narrow-gauge line.

A public hearing was held at San Jose on August 24, 1917, at which the above proceedings were consolidated, the matters were duly submitted and are now ready for decision.

The Hobson street line of the San Jose Railroads is a narrow-gauge line .61 miles in length and extends from First street on and over Hobson street to the east line of Walnut street, all in the city of San Jose. No connection exists between the broad-gauge tracks of the San Jose Railroads on First street and the narrow-gauge track on Hobson street and passengers transfer at the intersection of First and Hobson streets, transfers being given to and from the broad-gauge lines of the San Jose Railroads.

The Hobson street line is a portion of a narrow-gauge line built under a franchise granted to Jacob Rich by the common council of the city of San Jose under date March 26, 1890, approved by the mayor of the city of San Jose on March 29, 1890, the franchise being for a term of thirty-five years. Another franchise was granted to Jacob Rich by the board of supervisors of the county of Santa Clara under date August 7, 1890, permitting the construction of a narrow-gauge

electric railroad from the westerly city limits of the city of San Jose through the county of Santa Clara, by way of College Park, to Alameda avenue. The portion of the line extending from Walnut street, San Jose, to Alameda avenue as covered by the franchise granted by the county of Santa Clara proving unremunerative, an application was made to the board of supervisors for permission to abandon said county franchise and the board of supervisors granted such application on or about January 1, 1901, whereupon the track from Walnut street to Alameda avenue was abandoned and removed. The city of San Jose, under date June 9, 1909, granted a franchise for a broad-gauge street railroad over the entire length of First street, which railroad could only be constructed after the narrow-gauge railroad constructed under the above-mentioned franchise granted to Jacob Rich was removed, and the narrow-gauge track on First street was removed with the consent of the common council of the city of San Jose and replaced by the broad-gauge street railroad constructed under the franchise granted June 9, 1909, to J. T. Burke, his successors and assigns.

At some period during the year 1912 the operation of the narrow-gauge line on Hobson street was discontinued by the San Jose Railroads, but operation was restored under date May 1, 1913, in accordance with a letter under date March 10, 1913, reading as follows:

"SAN JOSE, CAL., March 10, 1913.

*"To the Mayor and Common Council  
of the city of San Jose, California:*

"San Jose Railroads, a corporation, hereby agrees that it will operate the narrow-gauge street railroad on Hobson street from First street westerly to Walnut street, in the city of San Jose, county of Santa Clara, state of California, from May 1, 1913, until the twenty-ninth day of March, 1925, in accordance with the franchise upon said Hobson street from First street to Walnut street, passed by the mayor and common council of San Jose and approved by the mayor thereof on the twenty-ninth day of March, 1890.

SAN JOSE RAILROADS,

By F. E. CHAPIN, its General Manager."

It appears that this letter was written and that the agreement was made for the reason that action on certain franchises desired by the San Jose Railroads was withheld by the city council of the city of San Jose, pending the reestablishment of service on the Hobson street line, which franchises were afterwards granted under date of April 25, 1913.

The operations of the San Jose Railroads have resulted in a deficit, as indicated by sworn annual statements filed with this commission, and shown by the following statement:

	Fiscal years ending June 30 -				Year ending Dec. 31, 1916
	1913	1914	1915	1916	
Operating revenue .....	\$366,951 76	\$358,711 13	\$346,547 48	\$329,531 76	\$320,612 58
Miscellaneous income .....	36,156 29	43,281 62	6,682 36	3,890 59	759 52
<b>Totals .....</b>	<b>\$403,108 05</b>	<b>\$401,992 75</b>	<b>\$353,229 84</b>	<b>\$333,362 33</b>	<b>\$321,372 10</b>
Operating expense .....	251,188 15	247,932 73	249,463 53	239,929 06	244,630 03
Gross income, less op- erating expenses .....	\$151,919 90	\$154,060 02	\$103,766 31	\$93,433 27	\$76,742 07
Deductions from income:					
Taxes .....	\$14,908 31	\$18,081 38	\$19,045 75	\$20,619 45	\$19,004 78
Interest on funded debt	134,550 00	142,050 00	124,096 67	122,864 00	122,239 00
On floating debt .....	23,810 38	43,473 18	33,298 85	39,046 09	41,244 54
Other deductions .....	9,929 46	2,516 18	3,037 16	3,545 23	3,140 07
<b>Total deductions .....</b>	<b>\$183,198 15</b>	<b>\$206,120 74</b>	<b>\$179,478 43</b>	<b>\$186,074 77</b>	<b>\$185,718 39</b>
<b>Net loss .....</b>	<b>\$31,278 25</b>	<b>\$52,060 72</b>	<b>\$75,712 12</b>	<b>\$92,641 50</b>	<b>\$108,976 32</b>

A check of the travel on the Hobson street line for the following periods indicates daily averages as follows:

	Cash fares	Transfers	Passes	Total	Total car miles
March 22, to March 28, 1916, inclusive .....	41.7	41.8	2.1	85.6	2.08
April 4 to April 12, 1916, inclusive .....	45.3	46.6	2.3	94.3	2.27
August 15 to August 21, 1917, inclusive .....	38.7	38.7	0	77.4	1.94

The total number of passengers carried on this line during the month of June, 1917, was 2,917, of which 1,398 were cash fares, 1,510 transfers and 9 passes. The total revenue amounted to \$70.05 and the total car mileage was 1,698, or a revenue per car mile of 4.13 cents. The average operating expenses of all the lines of the San Jose Railroads for the six months period ending June 30, 1917, were 16.86 cents per car mile. On this basis the operation of the Hobson street line during the month of June, 1917, was conducted at a direct loss of 12.73 cents per car mile, amounting to \$216.15. It is evident that the operation of the Hobson street line contributes materially toward the succession of deficits shown in the foregoing comparison of revenue and expense for the fiscal years of 1913 to 1916, inclusive, and the calendar year of 1916.

The cost of rehabilitating the present narrow-gauge line, by replacing the present 35-pound rail with 60-pound relaying rail and broad-gauging, is estimated at \$7,749.00, due allowance having been made for the value of the scrap material.

In view of the fact that the Hobson street line has been operated at a substantial deficit and that the operation of the entire system of the San Jose Railroads is also conducted at a yearly loss, the capital investment necessary to rehabilitate this line by broad-gauging is not justified, as there appears no possibility of the line's being capable of earning the present cost of operation, to say nothing of any return upon the additional investment required.

Protestants against the abandonment of service and removal of the tracks offered no material testimony as to the reason why the public did not patronize the line, and relied principally on the agreement hereinabove referred to as justification for the continuance of service and for the rehabilitation of the line by broad-gauging.

After careful consideration of the evidence and exhibits in this proceeding, I am of the opinion and find as a fact that the expenditure necessary for the rehabilitation of this line by broad-gauging is not warranted and that same should not be authorized. I shall therefore recommend that the above-entitled case be dismissed.

Regarding the application of the San Jose Railroads for permission to suspend operation and abandon the line of narrow-gauge street railroad on Hobson street, the condition of the track is such that a considerable expenditure is necessary to place same in proper operative condition.

The management of the San Jose Railroads has proposed to install an automobile stage service on Hobson street, same connecting at First street with the First street line of the street car system serving the city of San Jose and with transfer privileges to and from all city lines. If a satisfactory automobile stage service were to be installed, the needs of the patrons of the Hobson street line would be cared for and the amount necessary for the rehabilitation of the present narrow-gauge track could be conserved. In addition, the service promised by the agreement of the general manager of the San Jose Railroads under date March 10, 1913, and hereinabove referred to, would be available for the patrons of the Hobson street line. I shall recommend that a period of thirty days from the date of the order in this proceeding be allowed the applicant, San Jose Railroads, in which to submit a proposed plan for automobile stage service on Hobson street in lieu of the operation of the present narrow-gauge street railroad, such plan to be approved by the city manager of

the city of San Jose and satisfactory to this commission, and that final order in this proceeding be deferred for said period of thirty days.

I recommend the following order:

**ORDER.**

A public hearing having been held in the above-entitled proceedings, the matter having been duly submitted and the commission being fully advised and basing its order on the findings of fact as set forth in the foregoing opinion,

*It is hereby ordered* that the complaint of the city of San Jose, a municipal corporation, requesting an order of this commission for the rehabilitation by broad-gauging of the Hobson street line of the San Jose Railroads, be and the same hereby is dismissed.

*It is further ordered* that decision on the application of San Jose Railroads for permission to discontinue service on its narrow-gauge street railway line on Hobson street, in the city of San Jose, from First street to Walnut street and to remove its rails and appurtenances therefrom, be and the same hereby is deferred for a period of thirty days from the date of service of this order. If within said thirty days San Jose Railroads shall present to this commission a plan for the operation of an automobile stage service along Hobson street in lieu of the present narrow-gauge street railroad operation, such plan to be satisfactory to the Railroad Commission, the petition in Application No. 2361 will be granted; otherwise said petition will be denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of February, 1918.

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DECISION No. 5161.

IN THE MATTER OF THE APPLICATION OF CONTRA COSTA GAS COMPANY FOR AN ORDER TO ISSUE FIFTY THOUSAND DOLLARS PAR VALUE OF ITS FIRST MORTGAGE SIX PER CENT BONDS AT NOT LESS THAN NINETY-TWO AND ONE-HALF PER CENT OF THE PAR VALUE THEREOF.

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Application No. 3493.

*Decided February 26, 1918.*

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Applicant authorized to issue \$50,000.00 face value of its first mortgage 6 per cent bonds to be sold at not less than 92½, the proceeds thereof to be used for the purpose of paying in part \$70,000.00 face value of outstanding short term notes.

S. Waldo Coleman, for Applicant.



BY THE COMMISSION.

### OPINION.

Contra Costa Gas Company asks authority to issue \$50,000.00 of its first mortgage 6 per cent bonds payable October 1, 1954, at not less than 92½ per cent of the face value thereof. It proposes to use the proceeds from the sale of the bonds to pay in part a \$70,000.00 5½ per cent note payable to Mercantile National Bank of San Francisco.

A hearing on the application was held before Examiner Encell at San Francisco on February 15.

Contra Costa Gas Company was organized on or about April 24, 1914. It operates in Pittsburg, Antioch, Concord, Martinez, Port Costa, Crockett and adjacent territory, all in Contra Costa County. For the year ending December 31, 1917, it reports 1,943 consumers as compared with 1,661 for the year ending December 31, 1916. Its sales in 1917 are reported at 51,854,900 cubic feet as compared with 35,538,700 cubic feet in 1916.

Applicant for the years ending December 31, 1916 and 1917, reports revenues and expenses as follows:

Item	1917	1916
Revenues .....	\$66,968 24	\$45,211 30
Expenses .....	46,825 03	31,549 00
Net operating revenues .....	\$20,143 21	\$13,662 30
Deductions -		
Bond interest .....	\$6,540 00	\$6,540 00
Other interest .....	4,300 38	1,383 26
Amortization of debt discount .....	311 40	332 63
Depreciation .....	4,946 51	
Miscellaneous .....		462 21
Total deductions .....	\$16,098 29	\$8,718 10
Surplus for year .....	\$4,044 92	\$4,944 20

The company in 1916 made no allowance for depreciation. In 1917 it deducts from its net operating revenues for this purpose the sum of \$4,946.51.

In Exhibit "A" attached to the petition herein, applicant reports its assets and liabilities as of December 31, 1917, as follows:

<i>Assets.</i>	
Fixed capital .....	\$240,475 19
Construction work in progress .....	796 68
Cash .....	3,855 14
Accounts receivable .....	15,210 36
Consumers gas accounts .....	\$5,838 59
Miscellaneous .....	9,371 77
Materials and supplies .....	8,038 97

Unamortized discount and expenses .....	\$23,724 30
Bonds .....	\$11,523 82
Stock .....	12,212 48
Prepayments .....	172 74
Total assets .....	\$292,285 38

*Liabilities.*

Capital stock outstanding .....	\$61,150 00
Bonds outstanding .....	109,000 00
Notes payable .....	75,000 00
Santa Cruz National Bank 6 per cent note .....	\$5,000 00
Mercantile National Bank of San Francisco, 5½ per cent note .....	70,000 00
Accounts payable .....	27,304 52
Accounts payable .....	\$24,471 03
Unpaid wages (not due) .....	1,283 04
Consumers (deposits) .....	1,003 20
Consumers (extensions) .....	140 00
Dividends declared .....	917 25
Interest accrued, but not due .....	2,077 34
Taxes accrued, but not due .....	4,587 79
Insurance .....	124 97
Reserves .....	5,681 67
Reserve for accrued bad debts .....	\$735 16
Reserve for gas and depreciation .....	721 43
Reserve for accrued depreciation .....	4,225 08
Corporate surplus unappropriated .....	6,762 09
Total liabilities .....	\$292,285 38

By Decision No. 1878, dated October 15, 1914 (Vol. 5, Opinions and Orders of the Railroad Commission of California, p. 594), the Railroad Commission authorized applicant to issue \$61,160.00 par value of its capital stock and \$109,000.00 of its first mortgage 6 per cent bonds. The order of the commission permitted the applicant to sell the stock at not less than \$80.00 per share and the bonds at not less than 90 per cent of their face value. From the sale of the stock and bonds, applicant realized the sum of \$147,780.00. In Exhibit "C" attached to the petition herein, applicant reports that to December 31, 1917, it has expended for fixed capital the sum of \$240,475.19, or \$92,695.19 more than the proceeds from the sale of the stocks and bonds heretofore authorized to be issued by the Railroad Commission.

For the purpose of extending and improving its gas system, applicant has found it necessary to borrow from the Mercantile National Bank of San Francisco on short term notes the sum of \$70,000.00. It is for the purpose of liquidating in part this indebtedness that it now desires to issue and sell \$50,000.00 of its first mortgage 6 per cent bonds. The testimony shows that the proceeds of the \$70,000.00 of notes have been expended for proper capital purposes and that applicant under its deed of trust may issue the \$50,000.00 of bonds referred to in this application.

**ORDER.**

Contra Costa Gas Company having applied to the Railroad Commission for authority to issue \$50,000.00 of its first mortgage 6 per cent bonds, a public hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Contra Costa Gas Company be and it is hereby granted authority to issue and sell for cash at not less than 92½ per cent of their face value \$50,000.00 of its first mortgage 6 per cent bonds payable October 1, 1954, upon the following conditions, and not otherwise:

1. Applicant shall use the proceeds from the sale of the bonds herein authorized to be issued for the purpose of paying in whole or in part its \$70,000.00 5½ per cent note payable to the Mercantile National Bank of San Francisco.

2. Applicant shall keep true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the bonds herein authorized to be issued, and shall on or before the twenty-fifth day of each month make a verified report to the Railroad Commission as required by the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted shall not become effective until applicant has paid the fee specified in section 57 of the Public Utilities Act.

4. The authority herein granted shall apply only to such bonds as may be issued on or before September 1, 1918.

Dated at San Francisco, California, this twenty-sixth day of February, 1918.

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DECISION No. 5163.

IN THE MATTER OF THE APPLICATION OF FAIR OAKS IRRIGATION DISTRICT TO FIX THE COMPENSATION TO BE PAID FOR THE WATER DISTRIBUTING SYSTEM OWNED BY O. A. ROBERTSON, IN FAIR OAKS.

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Application No. 2944.

*Decided February 27, 1918.*

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It is considered inequitable to base the value of rights of way on the value of adjoining lands, as the company, in the present instance, does not own the surface of the soil which determines the value of the land for agricultural

purposes; however, it is held that such rights are entitled to consideration as having some value in determining the reasonable compensation to be paid for the irrigation properties in question.

While it is incumbent upon the commission to establish a value for the properties and rights of a utility as a unit, some consideration will be given to the net earnings of the utility, when, as in the present case, its revenues are so inadequate as to class the properties as a liability rather than as an asset to its owner.

The sum of \$62,500.00 is found to be a fair and reasonable compensation to be paid by the Fair Oaks Irrigation District to O. A. Robertson for irrigation properties known as Fair Oaks Water Service.

*Frank F. Atkinson of Elliott & Atkinson, for Fair Oaks Irrigation District.*

*White, Miller, Needham & Harber, for O. A. Robertson.*

BY THE COMMISSION.

#### OPINION.

This is a proceeding to fix and determine the just compensation to be paid by Fair Oaks Irrigation District for a certain water distributing system which is now being operated in the county of Sacramento, state of California, under the name of O. A. Robertson Fair Oaks Water Service.

Following is a description of the property involved herein which description was submitted by the counsel for Fair Oaks Irrigation District and utility:

All that certain water distributing system, together with all pipes, main line and laterals, valves, water connections, taps, and meters of every kind, nature and description; together with all materials, equipment, tools, and personal property, water rights, water contracts, privileges and other property of every kind, nature and description belonging thereto and used in connection with said water pipe system; together with all rights of way acquired and belonging to said system now being situated and located in Fair Oaks Tract, Fair Oaks Townsite, Fair Oaks Addition No. One and elsewhere in the county of Sacramento, California.

All of which property is more particularly described in the decree of foreclosure, rendered by the Superior Court of the county of Sacramento, state of California, and dated the twentieth day of October, 1916, in the action entitled, "*Sacramento Valley Bank and Trust Company, new trustee, vs. American Irrigation Company et al.*," suit No. 18534, and also described in that certain commissioner's deed, dated December 11, 1916, made by F. J. Holland, commissioner, to O. A. Robertson and recorded January 25, 1917, in volume 461 of deeds, at page 204 of the records of Sacramento County.

Hearings were held at Sacramento on September 21 and 22, 1917, at which hearings testimony was introduced on behalf of the irrigation district, the utility, and the commission's engineers for the purpose

of establishing the value of the distributing system sought to be purchased. A further hearing was held in San Francisco, at which time certain differences as to the amount of property involved in the various laterals as set forth by the appraisal of the commission's engineers and the appraisal of the engineers for the utility, were explained and the correct amount set forth. At that time counsel for both parties presented their arguments as to what they considered a just and reasonable compensation for the property involved.

O. A. Robertson Fair Oaks Water Service is engaged in supplying water for irrigation and domestic purposes to the territory in and around Fair Oaks, Sacramento County, California. The present water system now owned by the O. A. Robertson Fair Oaks Water Service is a development of a water system started in 1896 by the Howard-Wilson Publishing Company of Chicago, which company was the owner of practically all of the lands which are within the boundaries of Fair Oaks Irrigation District. As a colonization project the Howard-Wilson Publishing Company owned both the land involved and the water for the irrigation of said land. Certain testimony was offered in this proceeding which tended to show that the purchasers of the land from the Howard-Wilson Publishing Company not only paid a price which included a sufficient sum to pay for the irrigation system, its pipe lines and laterals, but also that there had been a direct representation on the part of the Howard-Wilson Company that this water system and its water rights were the property of the colonists. This line of testimony was introduced for the purpose of showing an equity on the part of the present land owners in the system. No claim is made that the owners of the land have any legal title in the utility property. In fact, the application of the irrigation district recites that the water distributing system is now owned by O. A. Robertson.

It is unnecessary to recite the history of this irrigation system in any great detail. It is sufficient to say that from 1896 down to 1916 the property and the irrigation thereof were handled through various sales agents and successors of Howard-Wilson Company and that finally for a nonpayment of the interest on certain outstanding bonds for which the distributing system stood as security, O. A. Robertson representing certain bondholders purchased this system in 1916, at a sale on foreclosure and has ever since and now is the owner thereof. The cost of this system to O. A. Robertson at the foreclosure sale was \$37,571.47. This purchase price was contributed by the owners of \$62,000.00 worth of bonds. Testimony was adduced by counsel for the irrigation district showing this original cost to the present owners which fact must be given some consideration in determining what

would constitute a just compensation for that property, but serious consideration can not be given to the proposition that the price paid for property at a forced sale should determine the value of that property or the just compensation to be paid to the owner thereof.

In addition to the testimony offered by the irrigation district upon the question of equitable matters to be taken into consideration and the original cost to the utility, an appraisal was presented by Stephen E. Kieffer, an engineer called as witness for the district. This inventory was based upon the original cost as far as possible and where these costs were unavailable a reproduction cost new was the basis for the appraisal. In addition to the valuation upon these theories, Mr. Kieffer also testified that in his opinion the actual value of the system to the Fair Oaks Irrigation District was less than the appraised value for the reason that some of the pipes of the present system must be removed and replaced in order that the property bought may render efficient service to the irrigation district. This so-called actual value to the irrigation district was fixed by him at \$60,993.00.

Appraisals of the property were also presented at the hearings by Geo. S. Nickerson and Albert Givan, engineers, representing O. A. Robertson, and by Milo H. Brinkley, one of the commission's hydraulic engineers. A summary of these appraisals is as follows:

	Reproduction cost	Reproduction cost, less depreciation
Nickerson -----	\$110,615 00	\$89,329 00
Kieffer -----		72,477 00
Commission's engineers -----	127,890 00	73,484 00

In a subsequent estimate, corrections were made to Nickerson's estimate, raising his figure for reproduction cost less depreciation to \$90,673.00. Corrections to Kieffer's estimate made his figure \$73,293.00. Nickerson included in his appraisal an estimate for right of way, amounting to \$4,551.00, no estimate having been made for right of way by the other engineers. This right of way estimate not only included land through private property, but also in the public highway, it being contended that values for right of way in the highway should be included, since the property owners owned to the center of the highway, the public highway being in the nature of an easement. The right of the company to lay pipe lines on the property and on the highway is an easement and not ownership in fee. The owner of the land continues to use the surface of the soil as before. It appears to be inequitable to base the value of such right of way on the value of adjoining lands, since the company does not own the surface of the soil which determines the value of the land for agricultural use and

aside from evidence on the question of value for agricultural purposes no evidence was presented which may be used to determine the value of these rights of way. We will, however, give some consideration to this right which has some value in determining a just and reasonable compensation to be paid for the property herein involved.

In addition to the difference on the question of rights of way, a difference has arisen between Mr. Nickerson and Mr. Brinkley's figures in that Mr. Nickerson allowed an overhead of 15 per cent as against 13 per cent allowed by Mr. Brinkley, and also in that Mr. Nickerson has allowed a longer life to the main pipe of the system and has included a larger number of fittings than has Mr. Brinkley. The inclusion of these fittings in Mr. Nickerson's report was due to the revised inventory made by agents of the utility with which Mr. Brinkley had not had access. In addition to the estimate of Mr. Nickerson, he included a list of personal property which amounted to \$1,017.00, to which amount was added the sum of \$541.00 for pipe line. In the order accompanying this opinion we shall base our findings on the value of the system exclusive of personal property. By personal property we mean the property owned by the utility which is not used directly for conveying water, which consists of stock on hand, such as pipe, meters, valves, fittings and accessories and miscellaneous tools. This is done at the suggestion of the parties because there will be prior to the taking over of the property by the irrigation district certain additions or deductions from the list of personal property as presented by the engineer for the utility.

The annual reports of this utility show that no net earnings have resulted from its operation and before the rate increase granted to it in 1916, the operating expenses were greater than the revenue. During 1916 all of the earnings above operating expenses were to go back into the system in accordance with the order of the commission in that rate case. Notwithstanding various additions and betterments to the property, the depreciation has been such that the valuation of the property by the commission's engineers in 1917 was less than the one in 1916. The utility has always been and now is a liability rather than an asset upon its owners when viewed from an earning standpoint. In the decision of this commission in the application of the city of Los Angeles to determine the compensation to be paid to Southern California Edison Company for its electric distributing system, the commission says:

"As we read the authorities, they show conclusively that although the capitalization of net earnings is improper in the determination of the just compensation to be paid, courts and commissions which are charged with the duty of fixing and determining the just compensation to be paid in eminent domain pro-

ceedings, must consider the net earnings of the property however taken and must give to this factor the weight to which they may find it fairly to be entitled."

After quoting from various authorities they further say:

"We conclude from the foregoing authorities that while it is not proper in this proceeding to capitalize the net earnings of the Edison company from the property to be taken, it is nevertheless our duty to give consideration to the company's earnings from such property and to give to this element the weight to which in our opinion, after a careful review of the evidence, it is entitled."

In accordance with that decision some consideration will be given to the net earnings of the utility in this case as will be given to rights of way and to the cost of the physical structures. This property, however, is to be acquired as a whole and the finding on the question of value in this proceeding must be a finding of the value of the properties and rights as a unit. The necessity of making this single ultimate finding of value is not only prescribed by section 47 of the Public Utilities Act, but is also in accordance with the decisions elsewhere. As was said in the case of *Brunswick and Topsham Water District vs. Maine Water Company*, 99 Me. 377,

"There is only one value. It is the value of the structure as being used."

As was said in a similar situation by this commission in the matter of the application of Marin Municipal Water District for an order of the Railroad Commission determining the just compensation to be paid to Marin Water and Power Company for its lands, property and rights:

"It must be perfectly evident, however, that property such as that owned by the water company in this proceeding does not have a market value, in the usual sense in which those words are used. It is not bought and sold on the market like a bushel of wheat, but is a property devoted to a particular use and subject only to occasional sale."

With all these considerations in mind the commission must now find what in its opinion is a just and reasonable compensation to be paid for the property.

#### FINDINGS.

Fair Oaks Irrigation District, an irrigation system incorporated under the laws of the state of California, having filed with the Railroad Commission a petition setting forth the intention of said irrigation district to acquire under eminent domain proceedings or otherwise the



properties of the O. A. Robertson Water Service, a public utility operating within the boundaries of said irrigation district, and asking the Railroad Commission to fix and determine a just compensation to be paid to O. A. Robertson as owner of said O. A. Robertson water service thereof,

A public hearing having been held and Fair Oaks Irrigation District and O. A. Robertson having been accorded full opportunity to present such evidence as they may desire to submit and each of said parties having presented such evidence, and the Railroad Commission of the state of California being fully apprised in the premises,

The Railroad Commission hereby finds as a fact that the just compensation to be paid by Fair Oaks Irrigation District to O. A. Robertson for all the said company's water distributing system as aforesaid, is the sum of \$62,500.00. Said property for which said compensation is hereby fixed as just and reasonable is described in the opinion preceding this finding and excepting therefrom the personal property as herein above set forth.

By order of the Railroad Commission.

Dated at San Francisco, California, this twenty-seventh day of February, 1918.

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Decision No. 5165.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE COUNCIL OF THE CITY OF SAN RAFAEL BY ORDINANCE No. 42, ON JANUARY 7, 1918.

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Application No. 3555.

*Decided February 27, 1918.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise by it of the rights and privileges conferred by the council of the city of San Rafael in Ordinance No. 42, adopted on January 7, 1918, by which ordinance said company is given the right to place, erect and maintain poles, wires and other appliances and conductors and to lay underground conductors

for wires for the transmission of electricity for telephone and telegraph purposes, in, upon and under the streets, alleys, avenues, thoroughfares and public highways in the city of San Rafael, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within the said city of San Rafael; and it appearing to the commission that this is not a case in which a public hearing is necessary,

*It is hereby declared* that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges granted in Ordinance No. 42 of the city of San Rafael;

Provided, that said company shall not claim a value for said franchise in excess of the actual cost of obtaining the same, which in this application is stated to be \$187.50.

Dated at San Francisco, California, this twenty-seventh day of February, 1918.

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DECISION No. 5166.

IN THE MATTER OF THE APPLICATION OF O. R. FULLER FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND TO ACQUIRE CERTAIN EXISTING AUTOMOBILE INTERURBAN STAGE LINES OF TRUSTON CLARK.

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Application No. 3457.

*Decided February 27, 1918.*

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Individuals or corporations which may purchase automobile transportation systems which have operated prior to May 1, 1917, and accordingly have no local permits or a certificate as required under the provisions of chapter 213, laws of 1917, must obtain such permits and a certificate from this commission before they can continue the operation of the purchased properties.

Applicant granted a certificate permitting the operation of an automobile line for the transportation of passengers between Los Angeles and San Bernardino via Pomona and Ontario and between Pomona and Chino; provided, all necessary local permits are secured from the public authorities of the territory through which he proposes to operate; and also provided, that a revised time schedule be filed that shall eliminate departures from terminal points at or about the time scheduled by competing companies.

*H. W. Kidd* and *A. W. Ashburn*, for Applicant.

*W. J. Carr* and *G. E. Mills*, for A. R. G. Bus Line, Protestant.

*Frank Karr*, for Pacific Electric Railway Co., Protestant.

*Harry L. Weisbaum*, for Golden State Auto Tours Corporation, Protestant.

*F. D. Howell*, chief engineer, for Board of Public Utilities, city of Los Angeles.

THELEN and GORDON, *Commissioners*.

**OPINION.**

O. R. Fuller applies for a certificate that public convenience and necessity require the operation by him of an automobile stage line as a common carrier of passengers between Los Angeles and San Bernardino via Pomona and Ontario, and between Pomona and Chino.

A public hearing was held at Los Angeles on February 11, 1918, the matter was duly submitted and is now ready for decision.

Applicant herein purchased from Truston Clark, on October 29, 1917, all the equipment, supplies and good will of a business formerly operated under the fictitious name of "Clark Bus Line," said automobile stage line having originally commenced operation under the ownership of said Truston Clark in the counties of San Bernardino and Los Angeles in the month of October, 1914, and having operated regularly over the route now sought by applicant prior to May 1, 1917, the date fixed by chapter 213, laws of 1917, as that upon which all transportation companies as defined by chapter 213 were required to be operating in good faith or else were required to secure a certificate of public convenience and necessity from the Railroad Commission and permits from the governing bodies of all political subdivisions through which their routes passed. After purchasing the equipment and business of Truston Clark, applicant filed with the Railroad Commission an adoption of all passenger schedules and rates of fare as formerly filed by Truston Clark and thereafter conducted the operation of the stage line until advised by the Railroad Commission that such operation was unlawful and that the applicant not having been engaged in conducting a stage line over the route specified on May 1, 1917, was obliged by the provisions of chapter 213, laws of 1917, to procure a certificate of public convenience and necessity from the Railroad Commission and permits in accordance with the requirements of section 3 of chapter 213 from the governing bodies of all political subdivisions through which the route passes. Formal consent of municipalities and counties was secured for the transfer of licenses originally issued to Truston Clark, but such licenses are not permits as specified by the provisions of section 3 of chapter 213, above mentioned. Applicant has not yet applied to the governing bodies of the various political subdivisions for the necessary permits, but intends to make such applications immediately if a certificate of public convenience and necessity is granted by the Railroad Commission.

The equipment operated by Truston Clark under the fictitious name of "Clark Bus Line" consisted of four 3-ton Menominee trucks with special passenger bodies, six Signal automobile busses, one Seldon truck automobile, and three White automobile busses, the last-named

machines having been purchased on lease contracts during the month of October, 1917, and the contracts having been assigned by Clark to the applicant under date October 29, 1917. Applicant proposes to operate ten White automobile busses, each with a seating capacity of sixteen passengers, and has discarded all the equipment purchased from Clark, with the exception of the three White busses above referred to, for the reason that the machines were in poor operative condition and in the opinion of the applicant were not adapted for the automobile stage service and had depreciated to such an extent that repair costs which would accrue from their continued operation would be excessive and uneconomical.

The line was formerly operated with 11 round trips daily; applicant proposes a schedule of 16 round trips daily between Los Angeles and Ontario, 13 round trips daily between Ontario and San Bernardino and 7 round trips daily between Pomona and Chino.

No definite figures are available to reflect the volume of traffic cared for during the operation by Truston Clark. Records of travel kept by the applicant show the following data:

Month	Total passengers carried	Carried *between principal points	Per cent	Local passengers	Per cent
November, 1917 -----	13,009	3,915	30.09	9,094	69.91
December, 1917 -----	15,112	4,790	31.63	10,322	68.37
January, 1918 -----	13,852	3,872	27.95	9,980	72.05

\*Between Los Angeles and Pomona, Ontario and San Bernardino.

The statement of revenue and operating expense for the months of November, 1917, to January, 1918, inclusive, is as follows:

Month	Gross revenue	Operating expense	Net revenue
November, 1917 -----	\$4,928 30	\$4,704 47	\$223 83
December, 1917 -----	6,372 05	5,890 35	481 70
January, 1918 -----	4,641 52	4,675 60	*34 08
Totals -----	\$15,941 87	\$15,270 42	\$671 45

\*Indicates deficit.

A. R. G. Bus Company protests against the granting of the application and claims that it will be impossible to continue to furnish satisfactory service to the public if compelled to meet the competition now proposed by the applicant, and that there is not sufficient business to enable all the competing lines serving the territory between Los Angeles and San Bernardino to operate at a profit. This company commenced operation in the spring of 1915 between Los Angeles and Ontario and later extended service to Riverside and San Bernardino.

A record of the business handled by the A. R. G. Bus Company during the period from November, 1917, to January, 1918, inclusive, is as follows:

Month	Total passengers carried	Carried between principal points	Per cent	Local passengers	Per cent
November, 1917 -----	11,286	5,201	46.08	6,085	53.92
December, 1917 -----	11,348	5,087	45.63	6,061	54.37
January, 1918 -----	8,207	4,154	50.61	4,053	49.39

The records of the A. R. G. Bus company show that their operations were profitable for the six months period ending December 31, 1917, but that operation during the month of January, 1918, was conducted at a loss. This company operates twelve trips daily between San Bernardino and Los Angeles, and eleven trips daily between Los Angeles and San Bernardino. Three additional round trips are also operated between Los Angeles and Ontario.

The Golden State Auto Tours Company also protests against the granting of this application. This company operates nine round trips daily between Los Angeles and San Bernardino, but serves a different route and is therefore interested only in the through business between the terminals. This company in a period of twenty days carried a total of 318 through passengers, or 38 per cent of the rated seating capacity of their stages.

The Pacific Electric Railway Company protests against the granting of a certificate of public convenience and necessity as sought by applicant on the basis that it has ample accommodations to meet all the requirements of travel. The automobile stage lines, however, reach a number of communities which are not served by the trains of the Pacific Electric Railway Company.

Complaint was made by the automobile stage lines appearing in protest relative to the schedules conflicting and the stages of the applicant leaving terminals on a schedule showing departures arranged a short time prior to that of another line. A witness for applicant testified that an endeavor had been made to arrange schedules with competing lines so that there would be no conflict, but that such arrangement could not be perfected. The applicant and the protestants agreed that a revision of schedules should be made which would eliminate the cause of complaint and all stipulated that revised schedules which were satisfactory and approved by the commission should be made effective.

We have given careful consideration to all the evidence in this proceeding and find that a demand exists for the character of service now given and proposed to be continued by the applicant between Los

Angeles and San Bernardino. The volume of traffic during the months covered by the testimony is less than that enjoyed during the balance of the year, and with the increasing public demand for automobile stage transportation and for service of the character that is being given by the applicant and the competing stage lines between San Bernardino and Los Angeles, does not indicate that financial loss will be sustained by any company that continues to maintain a high-grade and attractive service.

Applicant has acquired the equipment of one of the pioneer automobile transportation companies of California and has replaced same with modern and comfortable equipment of the latest type and now proposes to give a satisfactory and convenient service as demanded by the traveling public.

We are of the opinion and find as a fact that public convenience and necessity require the operation by O. R. Fuller of an automobile stage line as a common carrier of passengers between Los Angeles and San Bernardino via Pomona and Ontario, and between Pomona and Chino, and recommend that the application be granted subject to the conditions appearing in the following form of order:

**ORDER.**

O. R. Fuller having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by him of an automobile stage line as a common carrier of passengers between Los Angeles and San Bernardino via Pomona and Ontario, and between Pomona and Chino, a public hearing having been held, the matter having been duly submitted and the commission being fully advised and basing its order on the finding of fact in the foregoing opinion,

The Railroad Commission hereby declares that public convenience and necessity require the operation by O. R. Fuller of an automobile stage service as a common carrier of passengers between Los Angeles and San Bernardino via Pomona and Ontario, and between Pomona and Chino; provided, that this declaration shall not become effective until said O. R. Fuller has secured from the Railroad Commission a supplemental order herein reciting that said O. R. Fuller has filed herein certified copies of permits from the governing bodies of all political subdivisions through which the proposed route passes as required by the provisions of section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted may not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that a revised time schedule covering the operation of stages between Los Angeles and San Bernardino, which said time schedule shall eliminate departures from terminal stations at or about the time scheduled by other transportation companies operating automobile stages between Los Angeles and San Bernardino, shall be filed with this commission for its approval within thirty days from the date of this order; and

*It is hereby further ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-seventh day of February, 1918.

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DECISION No. 5173.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO RELOCATE ITS THIRD STREET LINE IN THE CITY OF SAN BERNARDINO, BY ABANDONING ITS TRACKS ON THIRD STREET FROM A POINT 262.74 FEET EAST OF THE CENTER LINE OF "K" STREET TO MOUNT VERNON AVENUE, AND ON MOUNT VERNON AVENUE FROM THIRD STREET TO A POINT 176.17 FEET SOUTH OF THE CENTER LINE OF BROADWAY, AND CONSTRUCTING IN LIEU THEREOF A TRACK ON NEW THIRD STREET, SAN BERNARDINO, FROM A POINT 262.74 FEET EAST OF THE CENTER LINE OF "K" STREET TO A CONNECTION WITH ITS TRACKS IN MOUNT VERNON AVENUE 176.17 FEET SOUTH OF THE CENTER LINE OF BROADWAY.

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Application No. 3556.

*Decided March 2, 1918.*

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BY THE COMMISSION.

**ORDER.**

Pacific Electric Railway Company, a corporation, has applied for an order authorizing the relocation of its Third street line in the city of San Bernardino by abandoning its tracks on Third street from a point 262.74 feet east of the center line of "K" street to Mount Vernon avenue, and on Mount Vernon avenue from Third street to a point 176.17 feet south of the center line of Broadway, and constructing in lieu thereof a track on New Third street, San Bernardino, from a point 262.74 feet east of the center line of "K" street to a connection with its tracks in Mount Vernon avenue, 176.17 feet south

of the center line of Broadway. The proposed changes are necessary by reason of the rehabilitation of the passenger terminal facilities of The Atchison, Topeka and Santa Fe Railway Company at San Bernardino and the abandonment and vacation of Third street east of Mount Vernon avenue, and the opening and dedication to public use of a street to be known as New Third street, as shown on blue print marked M. W. H. 3488a attached to the application herein and marked Exhibit "A." The city of San Bernardino by an ordinance adopted by the mayor and common council under date February 1, 1918, has authorized the abandonment of the tracks referred to in the application herein and proposes to immediately adopt an ordinance granting the right and privilege of relocating tracks on New Third street.

The commission being fully advised and of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

*It is hereby ordered* that this application be and the same hereby is granted.

Dated at San Francisco, California, this second day of March, 1918.

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DECISION No. 5175.

NAVARRO LUMBER COMPANY

vs.

SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, NORTHWESTERN PACIFIC RAILROAD COMPANY, AND CALIFORNIA WESTERN RAILROAD AND NAVIGATION COMPANY.

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Case No. 1080.

*Decided March 2, 1918.*

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Shipments forwarded by a lumber company from its mills in Mendocino County by rail to the port of Albion whence it is moved by the lumber companies own boats to San Francisco for shipment to interior points, is not comparable, in a proceeding alleging discrimination, with all rail movements under joint rates from points in Mendocino and Humboldt counties via Northwestern Pacific, Southern Pacific and Santa Fe Railway, to interior California points. Complaint petitioning the commission to compel defendant carriers to eliminate certain alleged discriminatory and preferential rates in favor of mills located at various points in Mendocino and Humboldt counties dismissed on motion of defendants that complainant has failed to state a cause of action.

*Sanborn & Rochl*, for Complainant.

*Stanley Moore*, for Northwestern Pacific Railroad Company.

*Elmer Westlake*, for Southern Pacific Company.

*G. H. Baker*, for The Atchison, Topeka and Santa Fe Railway Company.



LOVELAND, *Commissioner*.

#### OPINION.

Complainant is engaged in logging operations and in the manufacture of lumber and forest products in Mendocino County, at and adjacent to the station of Navarro on the line of Northwestern Pacific Railroad Company, which runs from Christine, in Mendocino County, to the port of Albion on the Pacific coast. The defendants have in effect certain joint rates for the transportation of lumber and forest products from Eureka, Willits, Fort Bragg, Arcata, Samoa, South Bay, Carlotta, Little River Junction and Scotia to points in the Sacramento and San Joaquin valleys. Complainant alleges that these joint rates are unduly discriminatory and preferential in favor of the mills located at the points named, and prejudicial to the interests of the complainant, and asks that the commission require the defendants to desist from charging and collecting these discriminatory and preferential joint rates.

The defendants have made a motion to dismiss the complaint on the ground that a cause of action, in which this commission would have jurisdiction to grant relief, has not been stated.

We believe that the contention of defendants is correct and that the motion to dismiss should be granted.

The basis of the complaint is an alleged discrimination, claimed to be in violation of section 19 of the Public Utilities Act, which provides:

"SEC. 19. No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section."

This section of the act provides that no public utility shall grant any preference or advantage to any corporation or person, or subject any corporation or person to any prejudice or disadvantage. Neither shall any public utility establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service. Complainant here contends that the joint rates from Eureka and the other points above named to the Sacramento and San Joaquin valleys are discriminatory and prejudicial to its interests. We find as a fact, that the movement of traffic from complainant's mill is not a movement comparable for the purpose of establishing discrimination, to the movement covered by the joint rates of defendants. Traffic from complainant's mill is moved on a line of the Northwestern Pacific

Railroad Company to the port of Albion. The traffic is then carried in complainant's own boats to the port of San Francisco. From this port a local rail shipment is again made to the point of destination. There is no through route carriage of complainant's traffic, such as exists with the traffic to which the joint through rates alleged to be discriminatory apply. Complainant's traffic is moved by a local rail shipment to Albion, where complainant again receives it and holds it until it is turned over for another local rail shipment from San Francisco or some other port to the place of destination in the interior.

In our opinion, a "prejudice," "disadvantage" or "unreasonable difference," as contemplated in section 19 of the Public Utilities Act can only be established when comparison is made between situations which are comparable. We find as a fact that the transportation of traffic from complainant's mill to points in the interior via San Francisco is not, for the purpose of establishing discrimination, comparable with the all rail through route and joint rate movement of defendants.

#### ORDER.

This case having come on regularly for hearing and it appearing to the commission that complainant has failed to state a cause of action in which the commission has jurisdiction to grant relief,

*It is hereby ordered* that the motion of defendants that the complaint herein be dismissed be and the same is hereby granted.

Dated at San Francisco, California, this second day of March, 1918.

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#### DECISION No. 5177.

IN THE MATTER OF THE APPLICATION OF THE CONTRA COSTA GAS COMPANY FOR AN INCREASE IN GAS RATES.

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Application No. 3322.

*Decided March 4, 1918.*

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While the commission has adopted a policy which does not permit the transfer of all increases in costs of operation due to present abnormal conditions, to the consumers through increases in rates, it does not expect a utility to continue operating under a schedule of rates that will not meet actual operating expenses. Increased schedule of rates affecting entire system of applicant, established to become effective for meter readings on and after March 15, 1918.

*S. Waldo Coleman*, for Applicant.

*B. D. Marx-Greene*, for towns of Antioch and Pittsburg.

*Thomas D. Johnston*, for unincorporated towns of Crockett, Port Costa, Valona, Cralona, and Pacheco.

*A. F. Bray*, for town of Martinez.

*A. S. Sherlock*, for town of Concord.

BY THE COMMISSION.

### OPINION.

This is the application of the Contra Costa Gas Company for an increase in its rates for gas in the entire territory served by it.

Applicant operates an artificial gas plant in Pittsburg serving that town, while Antioch, Concord, Martinez, Crockett and contiguous territory are served by a system of high pressure transmission lines from the Pittsburg plant.

Applicant alleges in effect that its contract, by which it secures oil at 70 cents per barrel, expires on February 28, 1918, and that after that date it will have to pay approximately \$1.55 per barrel for oil. Applicant prays that in view of the fact that it has invested its moneys economically in constructing its properties, and that during the past year it has not been able to earn a fair return, that the rates be so revised as to allow said applicant to earn a reasonable return upon the value of the property used in its gas business.

Hearings were held before Examiner Encell at Martinez on January 23, and at Pittsburg on February 6, 1918, at which times testimony and evidence were introduced relative to the rates, operations and growth of applicant company.

The existing rates charged by applicant for gas are:

#### SCHEDULE "A."

##### *General Service.*

	Gross	Net
First 1,000 cu. ft. per month, per M cu. ft.-----	\$1 60	\$1 50
Next 1,000 cu. ft. per month, per M cu. ft.-----	1 35	1 25
Next 23,000 cu. ft. per month, per M cu. ft.-----	1 10	1 00
Next 15,000 cu. ft. per month, per M cu. ft.-----	90	80
Over 40,000 cu. ft. per month, per M cu. ft.-----	80	70
Minimum monthly charge per meter, per M cu. ft.-----	60	50

#### SCHEDULE "B."

##### *General Service.*

	Gross	Net
26,300 to 30,000 cu. ft. per month.-----	\$29 70	\$27 00
Next 14,400 cu. ft. per month, per M cu. ft.-----	1 00	90
41,500 to 50,000 cu. ft. per month.-----	44 50	40 00
Next 43,700 cu. ft. per month, per M cu. ft.-----	90	80
95,200 to 100,000 cu. ft. per month.-----	84 40	75 00
Over 100,000 cu. ft. per month, per M cu. ft.-----	85	75
Minimum monthly charge per meter.-----	29 70	27 00

## SCHEDULE "C."

*Prepay Meters.*

\$1.50 per 1,000 cu. ft.

Minimum, \$.50 per month per meter.

## SCHEDULE "D."

*Baking Ovens.*

	Gross	Net
Rate per M cu. ft. ....	\$0 85	\$0 75
Minimum .....	60	50

## SCHEDULE "E."

*Hotel and Restaurant Service.*

	Gross	Net
Rate per M cu. ft. ....	\$0 85	\$0 75
Minimum weekly charge per meter. ....	8 00	7 00

The above rates have been in effect since the company started operation on March 25, 1915, but this commission has not had occasion at any time during the period in which they have been on file to investigate their reasonableness.

Although no detailed valuation has been made of the property of the Contra Costa Gas Company, applicant has been under the jurisdiction of this commission during the entire corporate life, and its accounting has been kept in accordance with the prescribed classification.

The financial showing for the 1917 operation of the Contra Costa Gas Company is set forth as follows:

Reported investment, December 31, 1917.....	\$240,475.19
Total gross revenue .....	62,528.40
Operating expenses exclusive of depreciation.....	46,816.42
Net revenue available for depreciation and return.....	\$15,711.98
Per cent return available for interest and depreciation.....	6.53
Per cent return available for interest.....	4.40
Estimated investment in physical properties, December 31, 1918 .....	\$270,475.19

The operating statistics for the year 1917 and the estimates for 1918 are as follows:

	1917	1918, estimate
Total consumers .....	1,943	2,121
Total gas sales, M cu. ft. ....	51,854.9	60,083.9
Barrels oil used .....	19,826.9	20,800
Cost per barrel .....	\$0.70	\$1.55
Gas sales per consumer, cu. ft. ....	26,700	28,300
Gallons oil for M cu. ft. gas sold .....	16.1	14.5
Oil cost per M cu. ft. gas sold .....	\$0.268	\$0.536
Average revenue per M cu. ft. gas sold .....	1.21	
Increase in cost of oil per M cu. ft. gas sold .....		.268
Total labor cost .....	\$14,258.18	\$19,652.16
Labor cost per M cu. ft. gas sold .....	.275	.327
Increase in labor cost per M cu. ft. gas sold .....		.052
Average revenue per M cu. ft. gas sold necessary during 1918 to return 4.4 per cent on investment .....		1.563

It will be noted that during the year 1917 the average revenue per thousand cubic feet of gas sold was \$1.21, which netted the company a return of 4.4 per cent upon its investment. Due to the increased cost of oil and labor during the year 1918, it will be necessary for applicant to receive \$1.563 per thousand cubic feet of gas sold to earn the same return upon the investment. The above estimate is based upon an oil duty of 14.5 gallons per thousand cubic feet of gas sold, which it is believed the company should be able to realize during 1918.

If applicant is not granted relief its net revenue will be reduced from 4.4 per cent on its investment to a point where it will have insufficient funds to meet its actual operating expenses.

This commission does not believe that the entire burden of the present war conditions should be thrust upon the consumer. However, as there is little hope that a reduction in the price of oil will be realized in the near future, it is quite apparent that this company could not long survive if it continued to operate under the present rates.

An increase in rates is in general accompanied by a loss of some business; however, as the territory served by applicant is experiencing a considerable growth, due to the war industries situated therein, it is probable that the net result will be a slightly increased amount of business. From an analysis of the sales it is estimated that the proposed rates will return a revenue of \$1.54 per thousand cubic feet sold.

Applicant urges that in view of the form of rates in effect at present, and its collection methods, that it be granted the discount form of rates. We are of the opinion that in this case this form of rate will maintain the present low collection expenses and be a direct advantage to each consumer.

**ORDER.**

Contra Costa Gas Company having applied to increase its gas rates, and hearings having been held at Martinez and Pittsburg and the matter having been submitted and ready for decision, and the Railroad Commission finding as a fact that the existing rates under present conditions of cost of operation are unjust and unreasonable, and further finding as a fact that applicant should be granted authority to increase its rates to those set forth in the order,

*It is hereby ordered* that Contra Costa Gas Company be and the same is hereby authorized to charge and collect the following rates for gas. Such rates shall be applicable to all regular meter readings made on or after March 15, 1918, provided Contra Costa Gas Company shall have filed with the commission said rates on or before March 10, 1918:

**SCHEDULE "A."***General Service.*

	Gross	Net
First 500 cu. ft. or less per meter per month.....	\$1 10	\$1 00
Next 2,000 cu. ft. per meter per month, per M cu. ft.....	1 70	1 60
Next 2,500 cu. ft. per meter per month, per M cu. ft.....	1 50	1 40
Next 3,000 cu. ft. per meter per month, per M cu. ft.....	1 30	1 20
Next 7,000 cu. ft. per meter per month, per M cu. ft.....		1 00
All over 15,000 cu. ft. per meter per month, per M cu. ft.....		90

The net rate is effective if the bill is paid at the office of the company on or before the 10th of the month next succeeding that for which the bill is rendered. If the bill is not paid on or before the 10th, the gross charge is effective.

**SCHEDULE "B."***Prepay Meters.*

Rate: \$1.75 per 1,000 cu. ft.

Minimum: \$0.75 per meter per month.

**SCHEDULE "C."***Hotels, Restaurants and Bakeries.*

	Gross	Net
Rate per 1,000 cu. ft.....	\$0 85	\$0 80
Minimum weekly charge per meter.....	7 50	7 00

The net rate is effective if the bill is paid at the office of the company within three (3) days after reading of meter and presentation of weekly bill. If the bill is not paid within three (3) days, the gross charge is effective.

Dated at San Francisco, California, this fourth day of March, 1918.

## DECISION No. 5180.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN THE RATES CHARGED FOR GAS.

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Application No. 3294.

*Decided March 6, 1918.*

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BY THE COMMISSION.

**OPINION ON PETITION FOR FURTHER HEARING.**

On February 28, 1918, the Railroad Commission made and filed its Decision No. 5158 in this proceeding. The decision was made subsequent to public hearing in the city of San Diego and after report prepared by the Railroad Commission's gas and electric division had been served on all parties of record and after city attorneys representing the cities of San Diego, National City, Coronado, Chula Vista and Escondido had advised the Railroad Commission, subsequent to the examination of said report, that they did not desire a further hearing herein.

On February 28, 1918, a number of consumers of gas filed herein a petition for a further hearing.

Petitioners allege that they desire to draw the attention of the Railroad Commission to the favorable financial condition of San Diego Consolidated Gas and Electric Company for the year ending July 31, 1917. During this period and subsequent thereto until December 31, 1917, the gas company purchased its oil for 75 cents per barrel. As shown in said Decision No. 5158, the cost of oil to the gas company increased on January 1, 1918, to \$1.60 per barrel and on January 12, 1918, to \$1.62 per barrel. As further shown in said decision, if the 1918 price of oil had been in effect in 1917 and the unaccounted for gas had been 16.5 per cent, the gas company would have paid for this item alone the additional sum of \$144,300.00, being 20.6 cents for each 1,000 cubic feet of gas sold more than the cost in 1917.

Petitioners also allege their desire to present evidence as to the actual cost to San Diego Consolidated Gas and Electric Company of manufacturing gas as well as with reference to the contract made between the company and the United States Government with reference to the supply of gas and electricity to the army cantonment at Camp Kearny. These matters were all fully considered by the Railroad Commission before rendering said Decision No. 5158.

No good reason appears why a further hearing should be held in this proceeding. The petition for further hearing should be denied.

**ORDER.**

Certain consumers of gas from San Diego Consolidated Gas and Electric Company having filed herein on February 28, 1918, a petition for a further hearing, careful consideration having been given to said petition and no good reason appearing why such further hearing should be held,

*It is hereby ordered* that said petition be and the same is hereby denied.

Dated at San Francisco, California, this sixth day of March, 1918.

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DECISION No. 5185.

IN THE MATTER OF THE APPLICATION OF SAN DIMAS CHARTER OAK DOMESTIC WATER COMPANY FOR PERMISSION TO RENEW NOTES IN THE AMOUNT OF FIVE THOUSAND DOLLARS.

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Application No. 3525.

*Decided March 7, 1918.*

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Applicant authorized to issue for a period or periods of not to exceed two years, its promissory note or notes in the sum of \$5,000.00, such notes to be issued at not less than par, the proceeds thereof to be used to discharge the unpaid balance of three outstanding notes.

*William Bowring*, for Applicant.

BY THE COMMISSION.

**OPINION.**

San Dimas Charter Oak Domestic Water Company, a corporation, applies for authority to issue notes in the sum of \$5,000.00 and use the proceeds to refund notes for an equal amount heretofore issued for capital purposes.

A public hearing in the matter was held by Examiner Westover at Los Angeles, March 1.

Applicant is a public utility water corporation distributing water through about 520 connections in and about San Dimas, Los Angeles County. Its water is obtained through the ownership of 50 shares of stock of the San Dimas Water Company, a mutual organization.

During the year 1916 applicant purchased a high-level reservoir site for \$675.00, constructed a reservoir costing \$4,123.54 and installed 750 feet of 8-inch steel main and 4,600 feet of 6-inch steel laterals costing approximately \$2,675.00, the total improvement costing \$7,473.74. For this purpose it borrowed at the bank upon the three six-month notes shown in the order \$7,000.00. It paid upon these notes on August 24, 1917, \$1,000.00, and November 21, 1917, \$1,000.00, leaving unpaid the \$5,000.00 which it now wishes to refund.



The application as filed is for authority to issue a note for one year. At the hearing, leave was granted to amend the prayer so that note or notes might be issued for two years.

#### ORDER.

San Dimas-Charter Oak Domestic Water Company having applied to the Railroad Commission for authority to issue notes for \$5,000.00 and use the proceeds thereof to refund an unpaid balance of \$5,000.00 upon notes hereinafter described, and a public hearing having been held thereon, and the commission finding that the money to be procured by such issue of notes is reasonably required for the purposes specified in the order and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that San Dimas-Charter Oak Domestic Water Company be and it is hereby authorized to issue its two-year note or notes in the sum of \$5,000.00 at a rate of interest not exceeding 6 per cent per annum, and use the proceeds thereof for the purpose of refunding the unpaid portions of the following described notes issued to First National Bank of San Dimas, to wit:

October 10, 1916.....	\$2,000 00
November 21, 1916.....	3,000 00
January 8, 1917.....	2,000 00
	<hr/>
	\$7,000 00

This order is made upon the following conditions:

1. Said note or notes shall be issued at a rate of interest not exceeding 6 per cent per annum, and sold at a price to net to applicant their par or face value without commission or discount.

2. Applicant may, if it so desires, issue the note or notes for a period of less than two years and renew said notes from time to time, provided that the combined terms of the notes herein authorized and those issued in renewal thereof shall not exceed two years from the date hereof, and provided the amount of said notes outstanding at any time shall not exceed the total sum of \$5,000.00.

3. The authority herein granted to issue notes shall apply only to such notes as may be issued within sixty (60) days from the date hereof and to notes issued in renewal thereof.

4. Within ten (10) days after issuing any note or notes hereby authorized or any note or notes in renewal of notes so authorized, applicant shall report to the Railroad Commission in writing the fact of the issue of such note or notes with the description thereof and the note or notes refunded or renewed thereby.

5. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

Dated at San Francisco, California, this seventh day of March, 1918.

## DECISION No. 5186.

IN THE MATTER OF THE APPLICATION OF R. B. YOUNG, DOING BUSINESS AS THE GRIZZLY ELECTRIC COMPANY, FOR PERMISSION TO ISSUE A NOTE AND EXECUTE MORTGAGE ON ALL OF THE PROPERTY OF GRIZZLY ELECTRIC COMPANY AT PLUMAS, CALIFORNIA.

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Application No. 3518.

*Decided March 7, 1918.*

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Authorization of the Railroad Commission is not necessary for the issuance, by a public utility, of a promissory note for a period of not to exceed one year. Applicant authorized to execute a deed of trust covering all its electric properties for the purposes of securing a promissory note in the sum of \$2,000,000.

BY THE COMMISSION.

**OPINION.**

R. B. Young, doing an electrical lighting business under the name of the Grizzly Electric Company, asks authority to issue a ninety-day 8 per cent note for \$2,000,00, payable to Plumas County Bank, and execute a deed of trust to secure its payment.

A hearing upon the application was held before Examiner Westover at San Francisco.

Applicant's electrical generating plant was recently destroyed by fire. For the purpose of rebuilding it and liquidating his indebtedness he finds it necessary to borrow \$2,000,00 and execute deed of trust to secure its payment. A copy of the proposed deed of trust is attached to the petition herein, marked Exhibit "A." It is of the usual type and covers all of applicant's property now owned, or hereafter acquired, and used for the purpose of conducting an electric lighting business.

Applicant reports an indebtedness of \$382.81, represented by accounts payable, with no notes outstanding.

The Railroad Commission by Decision No. 3952 of December 26, 1916 (Vol. 12, Opinions and Orders of the Railroad Commission of California, page 111), fixed the electrical rates to be charged and collected by the Grizzly Electric Company. In its decision the estimated historical reproduction cost of the company's electric properties as found by the gas and electric department of the commission was placed at \$6,000,00. The decision also discusses the revenues and expenses of the plant and system.

As the term of the proposed note is less than one year, it is not necessary to procure authority from the commission for its issuance, but it is necessary to procure authority to execute deed of trust, which authority will be found in the order.

It will be assumed that the proceeds from the note will be expended for purposes specified in section 52 of the Public Utilities Act. If

application for authority to issue a note to refund the \$2,000.00 ninety-day note applicant now proposes to issue should hereafter be filed, the commission will at that time consider the purposes for which the proceeds have been used.

**ORDER.**

R. B. Young, doing business under the name of Grizzly Electric Company, having applied to the Railroad Commission for authority to issue a note and execute a mortgage to secure the payment thereof, and a public hearing having been held, and it appearing to the Railroad Commission that the application to execute deed of trust should be granted,

*It is hereby ordered* that R. B. Young, doing business under the name of Grizzly Electric Company, be and he is hereby authorized to execute a deed of trust in substantially the same form as the deed of trust attached to the petition herein and marked Exhibit "A," provided that the approval herein given of said deed of trust is for the purposes of this proceeding only and an approval only in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to other legal requirements to which said deed of trust may be subject; and provided, further, that a verified copy of the deed of trust as finally executed shall be filed with the Railroad Commission within ten days after its execution; and provided, further, that the authority herein granted to execute a deed of trust shall apply only to such deed of trust as may be executed on or before May 1, 1918.

Dated at San Francisco, California, this seventh day of March, 1918.

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**DECISION No. 5191.**

**IN THE MATTER OF THE DEMURRAGE RATES, AND THE RULES AND REGULATIONS GOVERNING THE SAME, OF COMMON CARRIER VESSELS AS DEFINED IN CHAPTER 707 OF THE LAWS OF 1917.**

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**Case No. 1174.**

*Decided March 9, 1918.*

Demurrage charges are not assessed with the intention of providing additional compensation for the carrier, but are more in the nature of a penalty imposed upon the shipper for unnecessary delays in loading or unloading and to prevent undue retention of equipment and its use for purposes of storage.

Free time for loading or unloading common carrier vessels as defined by chapter 707 of the laws of 1917 is fixed at 24 hours after the first 7 a.m. for all commodities except hay and straw, which is fixed at 48 hours after the first 7 a.m. Only holidays which are generally observed to be disregarded, and the demurrage rate established at 25 cents per ton per day, based on the gross carrying capacity of the vessel.

General order issued approved by the Railroad Commission to become effective May 1, 1918, establishing rules and regulations governing demurrage applying to vessels operating upon the inland waters of this state, having no fixed sailing schedules, routes or termini.

*Bishop & Bahler*, by *H. M. Wade*, for Producers Hay Association.  
*Ira S. Lillick* and *J. A. Olson*, for Carl Anderson, M. Barletta et al.  
*Saunborn & Rochl*, for Sacramento Transportation Company.  
*Seth Mann*, for San Francisco Chamber of Commerce.

LOVELAND, *Commissioner*.

#### OPINION.

This is an investigation on the Railroad Commission's initiative into the rates, rules and regulations affecting demurrage on common carrier vessels engaged in intrastate traffic. A hearing was held in San Francisco January 7, 1918, and the matter is now ready for decision.

The situation which brought about the present proceeding resulted from Case No. 1141, a complaint filed on behalf of hay dealers of San Francisco alleging that demurrage regulation and rates published by certain carriers did not conform to the practice of such carriers as of July 27, 1917.

In the original case the commission did not attempt to reach a conclusion as to what would be fair and reasonable rates and rules covering demurrage, but recommended that an independent investigation, sufficiently large in scope to include all phases of the subject, be instituted. The order herein contains the result of the commission's inquiry.

The principal questions discussed at the proceeding involve the rate of demurrage; free time allowed for loading and unloading; free time during legal holidays and inclement weather; notifications to be given consignor and consignee, bunching of vessels at either point of loading or unloading, and the amount of free time to be allowed when vessels are diverted after having reached the original billed destination. The testimony dealt principally with the scow type of vessels of small carrying capacity operated either by gasoline motor or sail and which, as a general rule are devoted to single consignments on each trip. Under the tariffs now in effect demurrage is 25 cents per ton based on the gross register of the vessel used regardless of the actual weight of the cargo and begins 48 hours after the vessel arrives at destination.

Protestants contended that they should have 48 hours free time, computed from the first 7 a.m. after vessel reaches the dock and that no charge should be made for Sundays and legal holidays. Operators of vessels took the position that free time should begin to run immediately after arrival of vessel and that only the holidays observed by laboring men, such as January 1, Fourth of July, Labor Day, September 9, Thanksgiving Day and Christmas should be disregarded in

computing time and amount of demurrage, also that the free time should be but 24 hours on all heavy commodities.

An exhibit was introduced giving the cost per day for operating a power boat with a capacity of 75 gross tons. This exhibit showed the actual out-of-pocket expense to be \$20.22 per day, including the salaries of one captain, one engineer, three sailors, board of the five men and incidental expenses of dockage and insurance. Based on the suggested demurrage rate of 25 cents per ton the owner of a vessel with a carrying capacity of only 75 gross tons would receive but \$18.75 in demurrage to meet the outlay of \$20.22, sustaining a loss of \$1.47 per day, while the vessels having a capacity of 80 tons and over would earn in demurrage charges amounts but little in excess of the out-of-pocket expense per day for maintaining the vessel. Upon this showing, which was not successfully controverted by protestants, I am of the opinion that a rate of 25 cents per ton per day, based on the gross carrying capacity of the vessel, would be reasonable.

All parties were agreed that when the inclemency of the weather rendered impossible the loading or unloading of freight within the free time allowance no charge should be made for necessary detention of vessel until discharge of cargo, but if the weather conditions were such that the cargo could have been unloaded during the free period, no credit be given for the inclement weather occurring after the cargo should have been unloaded under the free time privilege.

Rail carriers until recently made no demurrage charge during inclement weather, but the privilege, being a source of much complaint from both shippers and carriers, was eliminated from the tariffs. It is apparent that no hard and fast weather rule can be established for water carriers and when disputes arise under alleged conditions, making it impossible to load or unload vessels, the matter should be referred to this commission for adjustment.

I am of the opinion that the free time should be restricted to meet the absolute needs of the traffic, in order that vessels may not be unnecessarily delayed, and that in computing the same or assessing amount of demurrage only such holidays as are generally observed should be disregarded, also that 24 hours after the first 7 a.m. is ample time for the unloading of all commodities except hay and straw, upon which 48 hours after the first 7 a.m. should be allowed.

The assessment of demurrage charges is not intended as compensation, but is rather a penalty imposed upon shippers who, after ordering vessels, fail to provide cargo within a fixed time or to arrange for the prompt unloading of the cargo at its destination. A carrier should not be expected to provide storage on its vessels and when vessels are used for such purpose it is very apparent that reasonable amounts

should be paid for storage facilities and for the detention of equipment. Rates assessed for the transportation of a commodity do not include unlimited free use of vessels at either point of loading or unloading and a carrier, being under obligation to conduct its business in the interest of all its patrons and the public, can not have the full and free use of the vessels unless they are promptly released by shippers.

The establishment of demurrage rates and rules applicable to vessels is somewhat of an innovation, consequently the commission has been largely without precedent or guide in some of the important phases of the subject. The rates and rules set forth in the accompanying order are more or less of an experimental nature and may not prove to be a complete solution of all the problems. This, however, can only be determined after they have been given a fair trial.

In view of the foregoing the following order is recommended:

#### ORDER.

A proceeding having been instituted by the commission in the matter of prescribing uniform rates and rules covering demurrage on vessels engaged in irregular service on the inland waters of this state, a hearing having been held, a full investigation of the matters and things involved having been had, and being fully advised in the premises,

*It is hereby ordered* that this commission adopt the following general order, to be known as General Order No. 52, the same to supersede and take the place of all demurrage rates and rules previously published or enforced for the class of vessels therein described, and to become effective on and after May 9, 1918.

#### RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

##### GENERAL ORDER No. 52.

##### DEMURRAGE RULES AND REGULATIONS APPLYING TO VESSELS OPERATING UPON THE INLAND WATERS OF THIS STATE HAVING NO FIXED SAILING SCHEDULES, ROUTES OR TERMINI.

*Approved March 9, 1918. Effective May 1, 1918.*

All vessels held by or for consignor or consignee for loading, unloading, forwarding directions, or for any other purpose, are subject to the following demurrage rules:

#### RULE 1.

##### Ordering a Vessel for Loading.

(a) When a shipper desires a vessel for loading, notice must be given carrier by mail, telephone or other convenient method (a proper memorandum, together with notation of acceptance, should be retained),

indicating the date vessel is desired, the character and location of the freight and its destination.

(b) When a carrier accepts orders for the transportation of cargo and fails to furnish vessel as agreed it shall be subject to the payment of demurrage, at the rate fixed in these rules, for each day of unnecessary delay, not to exceed the time required for the despatch of a similar vessel to such loading point.

(c) When a shipper orders a vessel to report for cargo at a given time and place and fails to supply cargo as agreed, demurrage at the rate fixed in these rules will be charged for the number of days required by the vessel to make the round trip under ordinary conditions, provided that if cargo has been partially loaded and is shipped the only demurrage charge will be for the additional loss of time by the vessel while waiting at point of loading.

## **RULE 2.**

### **Notification of Arrival.**

Notice shall be given consignor and consignee by carrier's agent, in writing or as otherwise agreed to, within twenty-four (24) hours after arrival of vessel at point of loading or unloading, such notice, when given at destination, to contain point of shipment and description of the commodity.

## **RULE 3.**

### **Free Time to Load Cargo.**

Where loading is performed by shipper twenty-four (24) hours' free time, computed from the first 7 o'clock a.m. after arrival of vessel at wharf, landing or loading chute and notification to party designated by shipper as provided herein, will be allowed to complete the proper loading of all commodities except hay and straw, which will be allowed forty-eight (48) hours' free time.

## **RULE 4.**

### **Free Time to Unload Cargo.**

(a) Where unloading is performed by consignee twenty-four (24) hours' free time, computed from the first 7 o'clock a.m. after arrival of vessel at destination wharf or dock and notification as provided herein, will be allowed to consignee for the unloading of all commodities except hay and straw, which will be allowed forty-eight (48) hours' free time.

(b) When cargo is unloaded by the carrier, twenty-four (24) hours' free time, computed from the first 7 o'clock a.m. after arrival and notification as provided herein, will be allowed consignee to arrange for the receipt of cargo.

**RULE 5.****Change in Destination.**

Twenty-four (24) hours' free time, computed from the first 7 o'clock a.m. after arrival at the billed destination, will be allowed when a vessel is diverted to another destination for unloading.

**RULE 6.****Bunching.**

When, by reason of delay not attributable to consignor or consignee, more than four vessels of one carrier with cargo for the same consignee arrive and report at termini within the same twenty-four (24) hours, such consignor or consignee shall be allowed such free time as he would have been entitled to had the vessels arrived as ordered.

**RULE 7.****Days Not Counted in Computing Free Time and Demurrage.**

In computing free time and demurrage no account will be taken of Sundays and the following holidays:

1. The first day of January.
2. The thirtieth day of May.
3. The fourth day of July.
4. Labor day.
5. The ninth day of September.
6. Thanksgiving Day.
7. The twenty-fifth day of December.

When a holiday, as specified, falls upon a Sunday, the following Monday will be regarded as the holiday.

**RULE 8.****Rate of Demurrage.**

After the expiration of free time allowed under these rules, demurrage will be charged at the rate of 25 cents per gross ton register of vessel per day of twenty-four (24) hours, or fraction thereof, such vessel is detained.

**RULE 9.****Unavoidable Delays.**

When it shall appear to the satisfaction of the commission that the failure of a vessel to arrive at the loading or unloading point, or the failure of consignor or consignee to load or unload the same is due to causes beyond the control of such carrier, consignor or consignee, no payment shall be required to be made on account of such delay.



**RULE 10.****Disputes.**

Disputes arising between carriers and consignors or consignees concerning the interpretation of these rules, or concerning any claim arising thereunder, shall be submitted to the commission for adjustment.

**RULE 11.****Publication.**

These rules shall be immediately printed by the carriers, or their authorized agents, filed with the commission and distributed to the agents of such carriers and shall constitute their demurrage tariff.

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The Railroad Commission hereby finds as a fact that all the rules and regulations prescribed in the foregoing order are just and reasonable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 9th day of March, 1918.

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**DECISION No. 5196.**

**IN THE MATTER OF THE APPLICATION OF WINTERHAVEN IMPROVEMENT COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK, AND FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

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**Application No. 3461.**

*Decided March 11, 1918.*

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The Railroad Commission can not issue to a public utility a certificate permitting the exercise of rights under a franchise which it has obtained unless such franchise is valid and conforms to the various provisions of state laws governing the granting of franchises. Order made declaring that certificate will be issued to applicant, permitting the operation of a water and electric distributing system in the town of Winterhaven, when a legal franchise has been obtained by applicant.

Applicant authorized to issue 17,000 shares of stock of the par value of \$1.00 per share, \$12,792.81 par value to be issued to Winterhaven Townsite Company covering property and money advanced, the balance to be sold at not less than par, proceeds to be used to complete applicant's water and electric plants.

*C. A. Lindeman*, for Applicant.

*E. B. Criddle*, for The Southern Sierras Power Company and Coachella Valley Ice and Electric Company.

BY THE COMMISSION.

**OPINION.**

Winterhaven Improvement Company applies for certificate that public convenience and necessity require it to exercise franchise rights to serve water, electric energy and gas in the townsite of Winterhaven and vicinity in Imperial County and that it be authorized to issue \$63,500.00 of its capital stock at par.

A public hearing was held at Winterhaven by Examiner Westover.

Applicant was organized by Winterhaven Townsite Company, engaged in marketing the townsite of Winterhaven, California, about one and one-half miles from Yuma, Arizona. Applicant has an authorized stock issue of \$65,000.00 divided into 65,000 shares of the par value of \$1.00 each.

On November 6, 1916 (Vol. 11, Opinions and Orders of the Railroad Commission of California, p. 888), the Railroad Commission denied without prejudice an application of Winterhaven Improvement Company for authority to issue \$63,500.00 par value of its capital stock. In its decision, the commission suggested that applicant amend its articles of incorporation so as to limit its business to that of a public utility character and that it then ask permission to issue its stock at par to secure such funds as it might need for public utility purposes only.

Under its original articles of incorporation, applicant was authorized to engage in public utility business of various kinds, to deal in real estate, engage in construction business, operate hotels, stores and other business of a character not related to its public utility functions.

The evidence in Application No. 2388 showed that prior to the filing of that application, applicant had issued to Winterhaven Townsite Company in exchange for lots \$63,500.00 par value of its common capital stock. The testimony in this proceeding shows that this stock has been canceled and that applicant's articles of incorporation have been amended along the lines suggested by the commission in its decision of November 6, 1916.

Since the hearing on the previous application, a number of buildings have been constructed on the townsite including a new and modern cotton gin with 12 machines having a capacity to gin 20 bales per day of the long staple cotton grown in the vicinity. A pumping plant has been built with a 25,000-gallon hemispherical modern steel water tank on a 60-foot steel tower and mains laid. An electrical distributing system has been partly constructed. The cost of applicant's water system to February 1, 1918, is reported at \$6,364.06, that of its electrical distributing system at \$4,017.02. Applicant estimates that it will have to expend about \$1,000.00 to complete its water system and about \$2,365.00 to complete its electrical distributing system. The engineers for the Railroad Commission have checked the expenditures, as well as the estimated expenditures, and find them to be reasonable.

Winterhaven Townsite Company has advanced to applicant all of the moneys expended in the construction of its water and electrical plants. The original as well as the present plan contemplate the purchase by applicant of 10 lots each 25 x 125 at \$500.00 per lot in exchange for capital stock at par, in addition to the lot 210 feet square on which its wells, machinery and structures are located, for which it is to pay in stock at par the sum of \$2,937.00. The price of the latter lot, as explained in letter from applicant, received since the hearing, is based on a price of \$250.00 each for lots 30 x 100, which represent the net selling price of adjoining lots. It is apparent that four such lots will allow ample space for applicant's utility business, and that an allowance of \$1,000.00 for the purchase of real estate is adequate to meet applicant's needs.

The testimony indicates that the capital needs of applicant, other than working capital, are about as follows:

Organization, general construction and development cost, including incorporation, attorney's fees, traveling expenses, rent, taxes and \$67.70 cost of franchise .....	\$1,411 73
Water plant constructed .....	6,364 06
Water plant extensions .....	1,000 00
Electric construction .....	4,017 02
Electric extensions, meters and transformers .....	2,365 00
Real estate .....	1,000 00
<b>Total .....</b>	<b>\$16,157 81</b>

Applicant has about 25 water users who have been served since December 1, 1917, and 7 electric consumers who have been receiving electrical energy since about September 1, 1917. Applicant purchases its electric energy from the Yuma Light, Water and Power Company, which energy is originally generated by The Southern Sierras Power Company and delivered to the Yuma company through the lines of the Coachella Valley Ice and Electric Company, a company controlled by the same interests which control The Southern Sierras Power Company.

Applicant asks authority to sell water and electric energy in Winterhaven and vicinity. It proposes to put into effect the same schedule of rates as is charged by the Yuma Light, Gas and Water Company in the city of Yuma for electric service and a flat schedule of rates for water service as follows:

*Proposed Electric Power Rates.*

First 100 kilowatt hours, per meter per month .....	9 cents per kilowatt hour
Next 100 kilowatt hours, per meter per month .....	8 cents per kilowatt hour
Next 100 kilowatt hours, per meter per month .....	7 cents per kilowatt hour
Next 200 kilowatt hours, per meter per month .....	6 cents per kilowatt hour
Next 250 kilowatt hours, per meter per month .....	5 cents per kilowatt hour
Next 250 kilowatt hours, per meter per month .....	4 cents per kilowatt hour
All over 1,000 kilowatt hours, per meter per month .....	3½ cents per kilowatt hour
Minimum charge, \$1.00 per month per horsepower connected.	

*Proposed Electric Lighting Rates.*

First 6 kilowatt hours or less, per meter per month, \$1.00.	
First 50 kilowatt hours, per meter per month	16 cents per kilowatt hour
Next 50 kilowatt hours, per meter per month	14 cents per kilowatt hour
Next 100 kilowatt hours, per meter per month	12 cents per kilowatt hour
Next 100 kilowatt hours, per meter per month	10 cents per kilowatt hour
Next 200 kilowatt hours, per meter per month	8 cents per kilowatt hour
Next 250 kilowatt hours, per meter per month	7 cents per kilowatt hour
Next 250 kilowatt hours, per meter per month	6 cents per kilowatt hour
All over 1,000 kilowatt hours, per meter per month	5½ cents per kilowatt hour

*Proposed Water Rates.*

\$2.00 flat rate per month for residence service,
5.00 flat rate per month for commercial service,
10.00 flat rate per month for cotton-gin service,

Attached to the petition herein is a copy of a franchise granted to applicant by the board of supervisors of Imperial County on November 19, 1917, by resolution and order authorizing applicant to use the streets and public places in Winterhaven and vicinity for the purpose of constructing and maintaining pipes, mains, poles and wires for distributing water, gas and electric energy. The purported franchise apparently does not conform to the requirements of the Broughton Act, statutes of 1905, page 777, and its subsequent amendments. Section 1 of the act provides that "every franchise \* \* \* shall be granted upon the conditions in this act provided and not otherwise" and section 7 provides "the said franchise shall \* \* \* be granted by ordinance \* \* \*."

While it appears that furnishing of water and electric energy will serve public convenience and necessity in and about Winterhaven, the commission can not authorize the exercise of rights or privileges under franchise until a valid franchise, fully complying with all the requirements of the law, shall have been procured. When satisfactory evidence of that fact is presented, the commission will be in position to issue the appropriate order. It appears that for the present applicant will confine its operations to its water and electric business.

The town limits of Winterhaven are being modified by an exchange of about forty acres in the southerly part for an equal area on the north, carrying the line to the Southern Pacific right of way. The transmission lines of the Coachella Valley, Ice and Electric Company pass near Winterhaven and that company may later wish to distribute electric energy in that vicinity. Applicant and the Coachella company stipulated at the hearing that the territory to be served by applicant may be limited to the townsite of Winterhaven as contemplated, and a zone of a half mile beyond in each direction, and also the right to serve industries on Colorado siding of the Southern Pacific near Winter-

haven, which may be owned or operated by applicant, Winterhaven Townsite Company, or the affiliated interests of either of them.

**ORDER.**

Winterhaven Improvement Company having applied to the Railroad Commission for an order authorizing the issue of capital stock of the par value of \$63,500.00 and for a certificate that public convenience and necessity require it to exercise franchise rights, a public hearing having been held and the matter having been submitted and being now ready for decision,

*It is hereby ordered* that Winterhaven Improvement Company be and it is hereby granted authority to issue 17,000 shares of its capital stock of the par value of \$1.00 per share upon the following conditions and not otherwise:

(1) Of the stock herein authorized, 11,793 shares may be delivered to the Winterhaven Townsite Company in payment for \$11,792.81 advanced to applicant herein.

(2) Of the stock herein authorized, \$1,000 shares may be delivered to Winterhaven Townsite Company in exchange for land of the equivalent area of 4 lots each 30 x 105 heretofore conveyed to applicant by Winterhaven Townsite Company and used or useful in the public utility business of applicant.

(3) Of the stock herein authorized, 4,207 shares shall be sold by applicant for cash at not less than the par value thereof and the proceeds used for the purpose of completing applicant's water and electric plants, or for such other purposes as the Railroad Commission may authorize in a supplemental order.

(4) Until all the stock herein authorized has been issued, applicant shall on or before the twenty-fifth day of each month make a verified report to the Railroad Commission showing the amount of stock issued and the application of the proceeds in such manner and detail as is required by the commission in its General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted shall apply only to such stock as may be issued on or before November 1, 1918.

The Railroad Commission hereby declares that public convenience and necessity require that Winterhaven Improvement Company construct, maintain and operate means for furnishing water and distributing electric energy to the inhabitants of Winterhaven, Imperial County, and proper authority for the exercise of franchise rights will be issued when the commission has evidence that valid franchise has been procured.

Dated at San Francisco, California, this eleventh day of March, 1918,

## DECISION No. 5197.

IN THE MATTER OF THE APPLICATION OF WILLIAM F. FOWLER,  
RECEIVER OF THE PROPERTY OF SACRAMENTO VALLEY WEST  
SIDE CANAL COMPANY, FOR AN ORDER AUTHORIZING AN  
INCREASE IN RATES FOR WATER FOR IRRIGATION.

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Application No. 3369.

*Decided March 12, 1918.*

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Irrigationists in and adjacent to the district which applicant holds itself out as serving, having made application for water in excess of the amount which applicant is able to deliver during the irrigation season of 1918, rules and regulations are established by the commission governing the distribution and proration of water during the above period.

1. All lands planted to crops other than rice to receive the full amount of water delivered in 1917 irrespective of whether or not they lie within or without the boundaries of the district which applicant serves, it being held that outside lands were developed at considerable expense, depending upon water from applicant, and as such water was not taken at the time by farmers within the boundaries of the district, those residing outside should not be deprived of such supply now.
2. For the irrigation of rice it is concluded that all lands within the district irrigated during 1917 shall receive their full amount of water during 1918 as shall certain specified tracts outside the district; provided, that service to tracts outside the district shall be with the understanding that such service is for the present year only and that during 1919 they must look to other sources for their supply.
3. No lands lying without the irrigation district served by applicant which did not take water during the year 1917 shall receive service during the year 1918; however, lands within the district desiring water for general crops which did not receive water during 1917 shall be served while applicants for water for rice lands which did not receive water during 1917 shall be prorated according to the available supply.

Agreements between applicant and two public irrigation districts for the delivery of water by applicant to such districts approved; provided, that none of such water shall be used to irrigate lands which were not receiving water during the year 1917.

The Railroad Commission has no jurisdiction to make an order requiring the installation of pumping equipment, etc., when certain of the parties which such order would affect are private individuals and a public irrigation district.

*Frank Freeman*, for William F. Fowler, receiver, Superior California Farm Lands Company, Esperanza Land Company, James Mills Orchard Corporation.

*Frank Moody*, for Princeton-Codora-Glenn Irrigation District and Jacinto Irrigation District.

*C. L. Donohoe* and *Claude F. Purkitt*, for California Midland Realty Company, Spalding Company, George C. Ellis, Sacramento Valley Realty Company and other landowners.

*Thomas Rutledge*, for J. S. Gibson Company.

*Charles Elkus*, for P. B. Cross.

*George Freeman*, for Spier and Scheeline.

THELEN, *Commissioner*.

**OPINION ON SUPPLEMENTAL HEARING.**

In Decision No. 5071, made and filed on January 25, 1918, in the above-entitled proceeding, the Railroad Commission directed petitioner to "make such improvements and incur such expenditures as may be necessary so that the irrigation system of Sacramento Valley West Side Canal Company will have developed during the irrigating season of 1918 sufficient water to irrigate at least 26,000 acres of rice land and 15,000 acres of land planted to general crops."

The work necessary to develop this amount of water is now being done. The result will be to enable this system to irrigate in 1918 substantially 10,000 acres of additional rice land, or the equivalent thereof in general crops.

The Railroad Commission also established rates, rules and regulations to be applicable under this system for the irrigating season of 1918. The rates, rules and regulations thus established are in most respects identical with those heretofore established for the irrigating season of 1916 and 1917, and agreed to by the receiver and the consumers. (Decision No. 3080, made on February 7, 1916, Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 143, and Decision No. 4019, made on January 16, 1917, Vol. 12, Opinions and Orders of the Railroad Commission of California, p. 304, both decisions being rendered in cases Nos. 597 and 673.)

Among the rules and regulations established in said Decision No. 5071 was Rule 5, reading in part as follows:

"Landowners desiring water for irrigation of lands during the season of 1918, apart from the special use before and after the maximum demand during the irrigating season hereinbefore referred to, shall make application to the utility in writing, describing the land desired to be irrigated and the kind of crops to be raised thereon, this application to be made on or before February 15, 1918, on the condition that a payment of 20 per cent of the cost of the water applied for shall accompany the application, the balance to be paid in five equal monthly installments."

Rule 6 provided in part that any applicant for water for 1918 might protest against any other applicant who, in the opinion of the protestant, was applying for more water than he in good faith intended to use in 1918, and that the receiver should not make final assignment of the water for 1918 until authorized so to do by the Railroad Commission.

Shortly after February 15, 1918, the receiver filed with the Railroad Commission a statement showing the amount of water for which application had been made under this system for 1918. This statement was filed as Exhibit No. 2 of the receiver at the supplemental hearing

hereinafter referred to. The statement, as amplified and corrected by the testimony herein, shows that application has been made for between 55,000 and 55,200 acres of rice land and approximately 15,400 acres of general crops. Of the rice land for which application has been made, approximately 5,500 acres are located outside the boundaries of the old Central Irrigation District and the remaining lands, being 49,000 to 50,000 acres are located within the boundaries of the district. The lands for which water has been requested for the irrigation of general crops are almost evenly divided in acreage as between those located within and those located outside of the Central Irrigation District.

The total acreage irrigated in 1917 was as follows:

General crops -----	12,757 acres
Rice -----	16,556 acres

Even though we bear in mind the fact that this system will make available enough additional water to irrigate 10,000 additional acres of rice land, or the equivalent thereof in general crops, in 1918, it is still apparent that the applications for water for 1918 call for an amount of water largely in excess of the ability of the utility to supply in 1918. It is accordingly necessary to establish the principles on which the assignment of water for 1918 will be made.

Protests having been filed by a number of landowners, a supplemental hearing was held in Willows on February 28 and March 1, 1918, at which hearing evidence was introduced in behalf of all interested parties and the entire situation thoroughly examined. Additional data called for at the hearing have now been filed and the question of the assignment of water for 1918 may now be answered.

The subject matter of this opinion will now be considered under the following heads:

1. Lands which had water in 1917 for general crops.
2. Lands which had water in 1917 for rice.
3. Lands which did not have water in 1917.
4. Contracts between irrigation districts and receiver.
5. Irrigation before and after maximum use of water for rice.
6. Acceptance of proration.

**1. Lands which had water in 1917 for general crops.**

Lands which had water in 1917 for general crops, whether within or outside the boundaries of Central Irrigation District, should have water assigned to them for general crops in 1918, without diminution.

While quite a large acreage of general crops lies outside the boundaries of Central Irrigation District, including particularly the lands planted to general crops in the newly formed Princeton-Codora-Glenn Irrigation District and Jacinto Irrigation District along the River



Branch canal, the lands of James Mills Orchards Corporation at Maxwell and the Monroeville orchard of Superior California Farm Lands Company, these lands have been developed at considerable expense and valuable improvements affixed thereto at a time when the landowners in the Central Irrigation District were calling for only a small portion of the water which can be delivered through this system. The interested parties agree with practical unanimity that it would be most unjust to take the water from these lands in order to give it to landowners in Central Irrigation District who for many years have failed and refused to take water from this system and have slept on their rights.

**2. Lands which had water in 1917 for rice.**

Everyone agrees that lands in the Central Irrigation District which had water for rice in 1917 may be assigned the water necessary to irrigate these lands for rice in 1918.

In a number of instances, a portion of a large tract of land within the Central Irrigation District was heretofore planted to rice and it is now desired to apply the same quantity of water to another portion of the same tract, planting some other crop on the land planted to rice in 1917. The rotation of crops is clearly desirable and this disposition of the matter seems entirely proper, provided that if any such land heretofore planted to rice was sold subsequent to the irrigation season of 1917 and the new owner applies for water on the land which he bought and the former owner applies for water for rice on another portion of the same tract not heretofore planted to rice, the purchaser may receive water for rice without diminution, while the application for water by the former owner shall be considered to that extent as a new application subject to proration as hereinafter indicated.

In a number of instances, land within the Central Irrigation District was planted to general crops in 1917, but its owner now desires to plant it to rice, which crop requires approximately three times as much water as general crops. In such instances, the application, in so far as it covers water in excess of that necessary for general crops, must be regarded as a new application and take its pro rata.

In 1917, the following lands lying outside of Central Irrigation District received water for rice:

- (1) J. E. Knight—East  $\frac{1}{2}$  of section 57, Glenn Ranch survey, 234 acres.
- (2) California Midland Realty Company—South  $\frac{1}{2}$  of section 15, township 18 north, range 2 west, and lots 32 and 41 in the Boggs tract, 375 acres.
- (3) P. B. Cross—1,160 acres in the Packer tract.

(4) Superior California Farm Lands Company--170 acres in the Boggs and Packer tracts.

(5) A few small parcels in the Boggs tract.

The lands of California Midland Realty Company were also planted to rice in 1916.

J. E. Knight, California Midland Realty Company, P. B. Cross and the owners of the small parcels in the Boggs tract have applied for water for rice for the above described lands in 1918. Superior California Farm Lands Company has not made application for any lands to be planted to rice outside the boundaries of Central Irrigation District.

I have given careful consideration to the question as to the disposition which should be made of the lands outside of Central Irrigation District which were planted to rice in 1917 and for which application for water has been made for 1918, so that justice may be done both to the owners of these lands and to the owners of lands within Central Irrigation District.

On the one hand, these lands are outside the boundaries of Central Irrigation District. As said by the Supreme Court of this state in *Byington vs. Sacramento Valley West Side Canal Company*, 170 Cal. 124, "The lands within the bounds of the original Central Irrigation District constitute the primary territory to which the original public use extends and continues." The court further said that "When demanded, such lands (the lands within the district) must be served with water from the system, before it can lawfully be taken for use upon outside lands." Whether this language has the force of decision is a matter as to which well informed opinions differ.

The lands within the district are now for the first time making demand for water in excess of the ability of this system to supply in 1918, and it was urged by some of the parties hereto that the water should now be taken away from all lands outside the Central Irrigation District heretofore receiving water for rice. It is also urged that these lands received water for rice on the understanding that this water might and probably would later be used for the irrigation of lands within the original Central Irrigation District.

On the other hand, these lands were planted to rice while land-owners in the Central Irrigation District were still refusing to take water from this system even though earnestly solicited so to do. Some of these lands, particularly those planted to rice during both of the last two irrigating seasons, have played a very considerable part in demonstrating to the people of Glenn and Colusa counties the feasibility and profitableness of the rice crop.

The lands of Knight and California Midland Realty Company and the small parcels in the Boggs tract are within the newly created Princeton-Codora-Glenn Irrigation District and it is reasonable to assume that they will receive water from that district in 1919 and thereafter. The lands of Cross will presumably receive water in 1919 and thereafter, from an irrigating system which Cross is now constructing.

I conclude that it would be fair and just to all parties concerned to permit said lands of Knight, California Midland Realty Company and P. B. Cross and said small parcels in the Boggs tract to receive water from this system, without deduction, in 1918, but that the owners thereof must look forward to receiving no further water for said lands from this system after the irrigating season of 1918.

While I shall recommend that water be delivered by the receiver, during this season only, to said lands unless provision is made for irrigating them from other sources during this season, I desire to draw attention to the possibility of irrigating these and other rice lands outside of Central Irrigation District by other means, thus releasing for assignment to lands within Central Irrigation District the water which otherwise would be used on said lands.

The commission is in receipt of a letter dated March 7, 1918, from Mr. C. L. Donohoe, in which letter Mr. Donohoe suggests that a 300-horsepower motor and the necessary transformers, capable with a 36-inch pump of lifting the water from the Sacramento River at Sidd's Landing into the River Branch canal, can be leased from Pacific Gas and Electric Company for a rental of \$300.00 per month, provided that the trustees of Reclamation District No. 730 are willing to release the apparatus. The agreement of the Pacific Gas and Electric Company in this behalf is contained in letter dated March 6, 1918, from Mr. J. W. Coons, manager of the company's Yolo District, to Mr. Charles St. Maurice, engineer of Princeton-Codora-Glenn Irrigation District. Mr. Donohoe further states that a 36-inch pump, located at the same site as said motor and transformers, can be rented for \$600.00 for the season and that the expense of conveying the apparatus to Sidd's Landing, building the proper foundations and installing the apparatus, will be not to exceed \$2,500.00. Mr. Donohoe suggests that if this installation at Sidd's Landing is made, the requirements of the Princeton-Codora-Glenn Irrigation District can be met in this manner and the water which otherwise would be delivered by the receiver to the district can be brought down either through the River Branch canal or the Y laterals, thence into the main ditch of the Cross project and thence to the 1,160 acres of Cross, the 375 acres of California Midland Realty Company, the 250 acres of Knight and in addition

thereto to 400 acres applied for by Harry Boyse and 1,200 acres applied for by Cecil and Hatch. Unless some such arrangement is made, the last two parcels will receive no water. Mr. Donohoe further states that this plan may require a small lift from the River Branch canal into the Cross canal, but that he will undertake to find the necessary pump and equipment for that purpose.

The additional 90 second feet of water from Sidd's Landing, together with 15 second feet from the Shiloo pump, so states Mr. Donohoe, will be sufficient even without the Hamilton Sugar Beet Plant's pump to take care of the requirements of the Princeton-Codora-Glenn Irrigation District and of all the lands specifically hereinbefore described.

I have submitted this plan to Mr. R. W. Hawley, the Railroad Commission's hydraulic engineer, and he reports that it is entirely feasible from an engineering and economic point of view.

The Railroad Commission can not make an order in this matter for the reason that it involves a public irrigation district and a number of private individuals over whom the commission does not have jurisdiction. Nevertheless, I desire to draw attention to the fact that the consummation of this project will result in the irrigation of several thousand additional acres of rice land and the production of approximately 10,000,000 additional pounds of foodstuffs in 1918 and to express the earnest hope that all the parties involved in the matter will immediately confer and pull together to attain this very desirable and patriotic end.

### 3. Lands which did not have water in 1917.

No lands outside of Central Irrigation District which did not receive water from this system in 1917 should receive any water from the system in 1918 or thereafter as long as lands within the district demand the water.

This rule shall apply to all lands outside of the Central Irrigation District, including the 150 acres of the Monroeville orchard of the Superior California Farm Lands Company, which were not irrigated in 1917 but which are included in the applications for water for 1918. The testimony shows that the water level under these 150 acres is close to the surface of the ground and that other means for securing water for this land are available.

Referring now to the lands within the Central Irrigation District which were not irrigated in 1917, but as to which application is made for 1918, I shall address myself first to the applications for water for general crops. This system was originally planned and constructed for the irrigation of lands for general crops. While the present profitability of the rice crop has resulted in a very much larger demand for

rice than for general crops, it seems quite probable that after a number of years the mainstay of this system will again be general crops, and it seems a sound public policy to encourage the further development of general crops. The receiver has suggested that applications for water for general crops be granted in full and I agree with him in his conclusion. The receiver will accordingly assign in full the applications for water for lands for general crops within the Central Irrigation District before prorating.

Lands within Central Irrigation District which received water for general crops in 1917 and which now have applied for water for rice for the same lands for 1918 will receive without diminution the amount of water which they received in 1917, but must pro rate as to the additional water desired for rice on the basis, where the water is not measured, of three acres of land irrigated to general crops with the same amount of water which will irrigate one acre of land planted to rice.

Lands within Central Irrigation District which did not receive water in 1917 but have applied for water for rice for 1918, will take their pro rata of the water remaining after assignments have been made to the lands which are entitled to water without diminution, as herein set forth.

In estimating the amount of new lands to be considered within the Central Irrigation District as the basis of the proration, the following lands should be excluded:

(1) Fifty acres in the northeast  $\frac{1}{4}$  of section 22, township 16 north, range 3 west, M. D. B. and M., by voluntary agreement of the applicant.

(2) Six hundred and forty acres in section 21, township 19 north, range 3 west, M. D. B. and M.

The testimony shows affirmatively that this land will be unable to secure a right of way for the necessary lateral. If the necessary right of way, nevertheless, be secured prior to the assignment of water by the receiver, this land may be included.

#### **4. Contracts between irrigation districts and receiver.**

Princeton-Codora-Glenn Irrigation District and Jacinto Irrigation District, each a public irrigation district recently formed and embracing lands between the old Central Irrigation District and the Sacramento River, each presented a draft of proposed agreement with the receiver of the property of Sacramento Valley West Side Canal Company, providing for the delivery by him to each district of a specified amount of water for the irrigation season of 1918.

The agreement with the Princeton-Codora-Glenn Irrigation District provides for the delivery of not to exceed 65 second feet of water. The

agreement with the Jacinto Irrigation District provides for the delivery of not to exceed 35 second feet of water.

The district agrees, in each instance, to distribute the water on lands within its boundaries.

The agreements contain other provisions to which it is not necessary here to refer.

Each agreement provides that it is made subject to the approval of the Railroad Commission.

The testimony shows that the amounts of water specified in these contracts are assumed to be approximately the amounts which were delivered by the receiver to the lands within each of these districts, respectively, in 1917.

The testimony, however, developed the fact that these two irrigation districts may desire to apply some of this water to lands within their boundaries not irrigated in 1917. None of these lands are within the boundaries of the old Central Irrigation District. It is frankly conceded that under normal conditions, no new lands outside the Central Irrigation District would have a right to water as long as lands within the district are demanding the water. It is urged, however, that by reason of the existence of a limiting factor in the ability of the main canal of this system to deliver water, this limiting factor being referred to as the "Choke," the pumps of this system pumping water from the Sacramento River can pump 100 second feet of water more than can be forced this coming season through the "Choke" for use within the old Central Irrigation District. The "Choke" is caused by the failure to date to complete the main canal from its intersection with the west line of the Jacinto Grant southerly to the east line of township 20 north, range 3 west, M. D. B. and M., a distance of approximately four miles.

The argument is made that if these two irrigation districts confine to the lands within their boundaries irrigated in 1917 the waters which they are to receive from the receiver in 1918, a portion of the water which the receiver can pump and which, it is alleged, can not be forced through the "Choke" in the main canal will not be applied to any beneficial use and will be entirely wasted.

Everyone, of course, desires, particularly at this time, to have the water in this system used most efficiently in the production of food-stuffs. However, I have in mind the testimony showing that in 1917 the lands planted to general crops in these two irrigation districts were neglected in favor of rice lands and did not secure sufficient water for the irrigation of their crops, and I am not at all satisfied that all the water to be secured by these two districts from the receiver can not be used advantageously on the lands which received water in 1917.

Furthermore, Mr. R. W. Hawley, the Railroad Commission's hydraulic engineer, is by no means satisfied that more water than the amount estimated by the utility can not be transmitted through the "Choke."

While I shall recommend that these two agreements be approved, such approval will be subject to the proviso that unless hereafter authorized by the Railroad Commission, no water received by either of the two irrigation districts from the receiver shall be used to irrigate any lands which were not irrigated in 1917 or to irrigate for rice any lands not so planted in 1917.

The receiver will, of course, supply to these two districts only such water as is necessary for the irrigation of the lands in these two districts irrigated in 1917.

**5. Irrigation before and after maximum use of water for rice.**

The order in said Decision No. 5071, made on January 25, 1918, provides in part as follows:

"Sacramento Valley West Side Canal Company and William F. Fowler, receiver of the property of said company, are also authorized to deliver water before and after the maximum demand therefor during the irrigating season, for the purpose of germinating water grass seed in the rice fields or for moistening the land for early fall plowing, or otherwise, at the rate of 75 cents per acre for four acre inches of water, or fraction thereof, to be served at one time, with a proportionate charge for any amount exceeding four acre inches, payment to be made after each run of such water."

Under this provision, large quantities of water can be used under this system before and after the maximum demand during the irrigating season, for the irrigation of corn and other crops.

At this time, when the maximum production of foodstuffs is urgently desirable to serve the nation's war needs, the attention of both the receiver and the landowners under this system within the boundaries of the old Central Irrigation District is particularly directed to this situation and to the possibility of producing large additional crops of the character indicated by more complete and effective use of the water under this system.

**6. Acceptance of proration.**

Upon receipt of a copy of this opinion and order, the utility shall promptly proceed to assign its water in accordance with the principles herein set forth.

In any case in which an application is not granted in full, a percentage only of the acreage applied for being awarded, the utility may promptly send to the applicant a notice of the proration and direct that within ten days after the mailing of the notice the applicant notify the utility in writing whether he accepts the assignment and, if so, the particular land on which he intends to apply the water.

If any water thus assigned is not accepted, the utility shall notify the Railroad Commission, whereupon the utility will be promptly advised as to what disposition it shall make of such "returned water."

The foregoing solution of the vexing problems concerning the assignment of the limited amount of water available under this system for 1918 has been worked out in the hope that it will appeal to the interested parties as being, on the whole, a fair and just determination. It is much to be hoped that while the nation is at war and needs every available pound of foodstuffs, no obstruction will be placed in the way of the delivery by this system of the maximum amount of water under an orderly and certain procedure during the entire irrigating season.

I submit the following form of order:

#### ORDER.

A supplemental hearing having been held in the above-entitled proceeding on the question of the assignment of petitioner's available water for irrigation in 1918, and the matter having been submitted and being now ready for decision, Sacramento Valley West Side Canal Company and William F. Fowler, receiver of its property, are hereby ordered as follows:

1. Sacramento Valley West Side Canal Company and William F. Fowler, the receiver of said property, are hereby directed to assign for the irrigating season of 1918 the water in their system available for irrigation, such assignment to be made in accordance with the principles set forth in the opinion which precedes this order.

2. The form of agreement between Princeton-Codora-Glenn Irrigation District and William F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, filed herein as Exhibit No. 1 of Princeton-Codora-Glenn Irrigation District and the form of agreement between Jacinto Irrigation District and William F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, filed herein as Exhibit No. 1 of Jacinto Irrigation District, are hereby approved on the condition that unless hereafter otherwise authorized by the Railroad Commission, no water received by either of said irrigation districts from the receiver shall be used to irrigate any lands which were not irrigated in 1917, or to irrigate for rice any lands which were not irrigated for rice in 1917.

3. The Railroad Commission reserves the right to make such further order or orders herein as may to it seem proper and desirable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twelfth day of March, 1918.



## DECISION No. 5198.

IN THE MATTER OF THE APPLICATION OF MARY E. RIDEOUT ET AL.  
FOR AN ORDER OF THE RAILROAD COMMISSION FIXING THE  
WATER RATES OF A CERTAIN WATER SYSTEM OPERATED BY  
THEM IN THE TOWN OF EL PIZMO, SAN LUIS OBISPO COUNTY,  
CALIFORNIA.

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Application No. 3330.

*Decided March 12, 1918.*

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Upon petition of applicant for permission to increase rates for water, a revised schedule of flat and meter rates is established decreasing the domestic rate and increasing rates for commercial consumers so as to provide a return of \$850.00 for maintenance, operating expenses and taxes, \$252.00 for annual depreciation of plant and a suitable return on a valuation of \$6,000.00 representing plant investment.

*Jerome P. Andrews*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Applicants ask the commission to fix proper rates, rules and regulations governing the service of domestic water by them in the town of El Pizmo, San Luis Obispo County.

A public hearing upon the above application was held by Examiner Westover at El Pizmo, California.

The water system in question was acquired by ancestors of applicants through a foreclosure of mortgage on the unsold lots in the townsite of El Pizmo and on the hotel and its cottages.

The real estate and water system was inherited by applicants. The water system has not been segregated by them from the real estate but they allege in the application upon information and belief that the system cost originally about \$7,000.00 to install.

The water system consists of a 20-horsepower engine with suitable pump and four wells from which water is pumped to a cement-lined reservoir and thence distributed through 58 services, 36 of which are now active.

The only rates now in effect are eight classes of flat rates, most of the consumers paying a rate of \$1.50 per month for residences. No charge has heretofore been made for service to the hotel or its cottages nor to the tent city operated during the summer by some of the applicants.

Mr. Milo H. Brinkley, one of the commission's assistant hydraulic engineers, made an examination and appraisal of the plant. His estimate of its reproduction cost is \$7,739.00 at the average normal prices for materials; and that the annual depreciation on a 5 per cent sinking

fund basis is \$262.00. The system was overbuilt at the time it was installed. Part of this cost was no doubt realized from real estate operations of the original owners and should not be chargeable to the ratepayers in rates. The flat rates found in the order will probably reduce the monthly bills for many residences and somewhat increase bills for water served for commercial uses to the proportion such uses usually bear to residence uses. It is estimated that the new rates will provide \$850.00 for maintenance, operation and taxes, \$252.00 for annual depreciation of plant and a suitable return on \$6,000.00 representing plant investment.

Meters may be installed on this system at the option of the utility or the consumer. On the facts of this case, when the consumer requests the installation the utility may require the consumer to deposit the cost of installing the meter, said cost to be allowed to the consumer in rates, the allowance to be one-half of the monthly water bill until the amount of the deposit has been absorbed. The rules and regulations filed by petitioner may so provide.

#### ORDER.

Mary E. Rideout et al. having applied to the Railroad Commission for an order fixing proper rates, rules and regulations governing the service of domestic water at El Pizmo, San Luis Obispo County, and a public hearing having been held upon said application, the matter having been submitted and being now ready for decision,

It is hereby found by the Railroad Commission that the rates fixed by this order are just and reasonable rates for the service of domestic water in El Pizmo and that the present rates are unjust and unreasonable in so far as they differ from the rates herein fixed.

Basing its order upon the above finding of fact and upon the findings of fact in the opinion preceding these facts,

*It is hereby ordered* by the Railroad Commission of the state of California that applicants be authorized and empowered to file and thereafter collect the following schedule of rates and establish the following rules and regulations:

#### Monthly Rates.

1. *Flat rates.*
  1. Stores and offices.....\$1 25
  2. Houses, apartments and rooming houses of 3 rooms or less.....1 25
    - (a) For each additional room.....15
  3. Hotel (a) Dining room and kitchen.....5 00
    - (b) Bedrooms in hotel or detached per room.....30
  4. Restaurants per seating capacity.....075
    - Minimum.....\$1 50
  5. Barber shops.....1 50
  6. Horses or cows, each.....10
  7. Saloons or bars.....5 00

8. Soda fountains and ice cream parlors.....	\$1 50
9. Public garages .....	3 00
10. Public bathhouses .....	1 50
11. Houses and tents with faucet only on outside.....	75
12. Lawns, flowers and gardens per 100 square feet during irrigation.....	04
II. <i>Meter rates.</i>	
Minimum for 250 cubic feet or less.....	1 00
All use over 250 cubic feet per 100 cubic feet.....	25

Dated at San Francisco, California, this twelfth day of March, 1918.

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DECISION No. 5200.

IN THE MATTER OF THE APPLICATION OF LITTLE SHASTA TELEPHONE COMPANY, ALSO KNOWN AS THE MONTAGUE BUTTE VALLEY TELEPHONE COMPANY, AN ASSOCIATION, FOR AN ORDER AUTHORIZING IT TO SELL TELEPHONE SYSTEM TO KLAMATH TELEPHONE AND TELEGRAPH COMPANY.

Application No. 3298.

IN THE MATTER OF THE APPLICATION OF KLAMATH TELEPHONE AND TELEGRAPH COMPANY, AN ASSOCIATION, FOR AN ORDER TO EXTEND ITS LINES INTO TERRITORY HERETOFORE PARTIALLY SERVED BY OTHER PUBLIC UTILITIES.

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Application No. 3315.

*Decided March 13, 1918.*

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The Railroad Commission will not permit the transfer of a telephone line owned by private individuals, under an agreement whereby the acquiring company will render, in consideration for the properties transferred, a perpetual free service to the former owners. Such a service is considered discriminatory as regards other subscribers of the company.

Shasta company authorized to transfer its telephone line to the Klamath company and the latter granted a certificate permitting the construction and operation of a long distance toll line along the right of way of Southern Pacific Company between Dorris and Mount Hebron, such line to be limited to toll service only.

*James D. Fairchild*, for Applicants.

BY THE COMMISSION.

**OPINION.**

Little Shasta Telephone Company, in Application No. 3298, applies for authority to convey its telephone system extending east from Montague to Mount Hebron, with a total mileage of about 44 miles.

In Application No. 3315, Klamath Telephone and Telegraph Company applies for certificate that public convenience and necessity require it to extend its lines from Dorris to Mount Hebron, a total distance of about 14 miles. All of the territory referred to is in Siskiyou County.

A public hearing upon both applications was held by Examiner Westover at Dorris. By stipulation they were consolidated for hearing and decision.

**Transfer of Property of Little Shasta Telephone Company.**

Little Shasta Telephone Company, also known as Montague-Butte Valley Telephone Company, is a voluntary association of six ranchers and sawmill owners, who for a number of years have operated a toll line between Montague and Mount Hebron. The system had fallen into a bad state of repair. Rather than reconstruct the line, the owners preferred to turn over the system to others who would provide them with satisfactory service. Accordingly, a conveyance under date of June 8, 1917, was executed in the name of Little Shasta Telephone Company, conveying the system to Klamath Telephone and Telegraph Company, a copartnership, one of the above applicants, for a consideration of one dollar and perpetual free service to the six owners of the system. The purchasers at once reconstructed the line to Montague and now furnish service via Pacific Telephone and Telegraph Company to Yreka, the county seat. The above conveyance was executed without authority from the commission and apparently in ignorance of the invalidity of such conveyance. The proposed free service would create discrimination. For this reason this feature of the transaction would not be approved by the commission, even if the conveyance had been legal.

Since the hearing, Klamath Telephone and Telegraph Company has proposed instead of free service, to provide a separate line to Montague for three of the owners living in the vicinity of Little Shasta, which would provide them with service from Montague. It would also purchase the interests of the remaining three owners outright, and charge them regular rates for service.

**Proposed Extensions from Dorris to Montague and Mount Hebron.**

Klamath Telephone and Telegraph Company is a fictitious name used by a partnership composed of J. H. Hessig, Joseph V. Hessig and Augusta M. Hessig. It owns and operates a telephone system extending from Dorris to Ager, via Beswick, a total distance of about 30 miles, in Siskiyou County. It also owns and operates a telephone system in and about Klamath County, Oregon, bounding Siskiyou County on the north. This line centers in Klamath Falls, Oregon. It now wishes to build a new line of standard type construction along the Southern Pacific Railroad southerly from Dorris to Macdoel and Mount Hebron, a total distance of 14 miles, connecting there with the lines of the Little Shasta Telephone Company.

The territory lying west of the Southern Pacific Railroad and south of the Klamath company's line from Dorris to Beswick, is served by Butte Valley Telephone Company, a California corporation, connecting a number of ranchers and others, with Dorris.

The Butte Valley Telephone Company has no objection to the construction of the new line proposed as it believes that the service is needed by the community along the railroad. That company and the applicant, Klamath Telephone and Telegraph Company, have agreed that new subscribers in the territory lying between the present and the proposed lines shall be served by the system whose lines are nearest.

The territory to the west of Macdoel and Mount Hebron is served by a farmers line known as Macdoel Telephone Company. A direct line has been established by it between Macdoel and Mount Hebron, which are about two miles apart. The Macdoel Telephone Company has no objection to the proposed line as the farmers on this system wish direct connection with Dorris. They also believe that service between Macdoel and Mount Hebron will be improved by the new line.

It was not shown that public convenience and necessity require the entrance of Klamath Telephone and Telegraph Company into the territory of these two companies for the purpose of providing exchange or rural line service. Were it permitted, even with the consent of the other companies to so serve patrons in territory in which they operate, confusion would arise which the commission would ultimately be called upon to correct. We therefore limit the proposed service to long distance telephone and telegraph toll business between Dorris and Montague and intermediate stations.

Authority to make the transfer in question and to construct the proposed new line will be granted upon condition that Klamath Telephone and Telegraph Company file a schedule of rates for its proposed service between Dorris and Montague and intermediate points satisfactory to the commission.

Applicant considers no franchise necessary, as the line will follow the railroad. If it becomes necessary to procure a franchise later, application for authority to exercise franchise rights may then be made to the commission.

#### ORDER.

Little Shasta Telephone Company, an unincorporated association, known also as the Montague-Butte Valley Telephone Company, having applied to the Railroad Commission for an order authorizing it to sell to J. H. Hessig, Joseph V. Hessig and Augusta M. Hessig, partners in business under the name and style of Klamath Telephone and Telegraph Company, the telephone line extending from Montague to Mount Hebron, and said Klamath Telephone and Telegraph Company, a

partnership, having applied to the Railroad Commission for certificate that public convenience and necessity require it to extend its lines southerly from Dorris to Mount Hebron, in territory partially served by other public utility telephone systems, and a public hearing having been held thereon, the documents to be filed by the parties subsequent to the hearing having been received, and the matter having been submitted and being now ready for decision.

*It is hereby ordered* that Little Shasta Telephone Company, known also as Montague-Butte Valley Telephone Company, an unincorporated association, be and it is hereby authorized and empowered to hereafter convey to J. H. Hessig, Joseph V. Hessig and Augusta M. Hessig, a partnership, doing business under the name of Klamath Telephone and Telegraph Company, its telephone line extending from Montague to Mount Hebron, including all telephone apparatus, wires, poles, insulators, rights of way and other appurtenances used in connection therewith.

The Railroad Commission hereby declares that public convenience and necessity require said Klamath Telephone and Telegraph Company to construct, maintain and operate a long distance telephone and telegraph toll line between Dorris and Mount Hebron, along or near the line of the Southern Pacific Railroad, the service, however, to be limited to toll service.

The authority herein contained is upon the condition that Klamath Telephone and Telegraph Company shall file a schedule of rates covering service between Dorris and Montague and intermediate points, which are satisfactory to the commission, to be approved by supplemental order herein.

Dated at San Francisco, California, this thirteenth day of March, 1918.

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 DECISION No. 5202.  
 W. B. EWALT ET AL.  
 VS.

MIDLAND COUNTIES PUBLIC SERVICE CORPORATION ET AL.

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 Case No. 1159.

*Decided March 13, 1918.*

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 The commission holds that a public utility, when entering a territory, should not expect to serve only the larger and more profitable consumers, which can be served at a comparatively small expense, but should consider all business in the territory in question as a unit combining the less remunerative services with those of a more profitable nature.

The extensions which complainants petition the commission to compel defendant company to construct so as to enable it to serve prospective consumers in what is known as the Atascadero Colony in San Luis Obispo County, are held to be reasonable and justifiable under the evidence submitted and defendant is directed to make such necessary extensions within sixty days.

*Louis Cohen*, for Complainants.

*W. A. Sutherland and Murray Bourne*, for Defendants.

BY THE COMMISSION.

#### OPINION.

As originally filed this was the complaint of W. B. Ewalt and 125 other residents of that portion of San Luis Obispo County known as the Atascadero Colony, against the Midland Counties Public Service Corporation and the San Joaquin Light and Power Corporation. Subsequent to the hearing in this case, complainants submitted the petition of 18 other residents of the same locality and asked that they be included with the other complainants herein.

The complaint alleges in effect that during the past two years the Colony Holding Corporation of Atascadero had carried on negotiations with the Midland Counties Public Service Corporation on behalf of the complainants, in an endeavor to secure the extension of electric service generally for the inhabitants of this colony.

The complaint further alleges that the cost to the defendant of acquiring such of the present lines as they do not now own, and of constructing the additional lines necessary to serve complainants will be \$24,911.39, and that the probable gross revenue to be realized from all of the consumers served by this system will be \$12,804.00 per annum.

Attached to the complaint is a map entitled Exhibit "A," which shows the location of the respective homes of complainants, the present 10-kilovolt lines owned by defendant, the present secondary lines installed and owned by the Colony Holding Corporation, the present transformers installed and owned by Colony Holding Corporation and the proposed distribution system to be built.

Defendants in their answer deny that San Joaquin Light and Power Corporation has any interest in this matter whatsoever. Defendants claim that the total cost of all lines involved in this matter will be in excess of \$28,000.00 instead of \$24,911.00 as set forth in the complaint, and that the revenue will probably be not in excess of \$8,000.00 per annum. Defendants allege that the permanency of this colony is extremely doubtful and that it would therefore be unreasonable and unjust to require defendant to extend its lines without some special guaranty that its investment will be protected and a reasonable revenue will be assured.

Defendant, Midland Counties Public Service Corporation, further alleges in its answer that if complainants, or the Colony Holding Corporation, will advance the money necessary to make the desired extensions and purchase the present equipment of the Colony Holding Corporation, the defendant, Midland Counties Public Service Corporation, will repay the amount so advanced by crediting to the consumers receiving service an amount equal to 25 per cent of the gross earnings from the system so purchased, until the whole amount so advanced is repaid, provided that no such credits or payments shall be made beyond the term of 15 years. Defendant, Midland Counties Public Service Corporation under such a plan would be willing to pay interest at the rate of 6 per cent after five years, provided that 50 per cent of the total amount shall have been repaid within that time.

Defendants ask that the complaint be dismissed.

A hearing was held in this matter before Examiner Encell at Atascadero on December 21, 1917, at which time the matter was submitted with the understanding that certain further information would be filed with the commission; which data has now been received, and given the following exhibit numbers:

Complainant's Exhibit No. 2—Detailed estimate of revenue from the distributing system prayed for herein.

Complainant's Exhibit No. 3—A list of those complainants who have paid for their property in full and amounts so paid.

Complainant's Exhibit No. 4—An estimate of labor and material required to furnish additional light and power demanded since complaint was filed, the total amount being \$739.40.

Complainant's Exhibit No. 5—A list of those complainants who are employed either by the Colony Holding Corporation or one of its subsidiary enterprises.

Complainant's Exhibit No. 6—A list of those complainants whose names were added after the hearing, who are employed by either the Colony Holding Corporation or one of its subsidiary enterprises.

Defendant's Exhibit No. 1—A statement of the monthly consumption of each consumer served in this territory since the first lines were installed in April, 1914.

No evidence was offered connecting San Joaquin Light and Power Corporation with any interest in any of the matters involved herein. The complaint as to them should therefore be dismissed.

Hereafter in the opinion and order we shall refer to Midland Counties Public Service Corporation as "defendant."

The defendant in its answer alleges that the revenue which it received from its present consumers in the Atascadero Colony has been steadily decreasing for the past twelve months, and defendant therefore concludes that the annual gross income to be realized from the proposed



system, if completed, will not exceed \$8,000.00. No detailed study or other evidence was introduced at the hearing in support of this contention. On the other hand, complainants introduced evidence to show that with certain additional load, which is in immediate prospect, the annual gross revenue to be expected is \$18,615.00.

The following table prepared by the engineers of the commission is a comparative estimate of the annual cost to serve complainants as based upon the figures contained in defendant's answer and the complainant's exhibits offered in evidence.

	Defendant's basis	Complain- ant's basis
Investment .....	\$28,150 00	\$25,651 00
Gross revenue .....	8,000 00	18,615 00
Annual depreciation and maintenance at 4 per cent.....	\$1,126 00	\$1,026 00
Consumer costs—150 consumers at \$.10.....	765 00	765 00
Taxes at 5.6 per cent of gross income.....	448 00	1,042 00
Energy, 508,387 kilowatt hours at 1.94 cents.....	9,863 00	9,863 00
Interest on local investment at 8 per cent.....	2,252 00	2,052 00
Total annual cost.....	\$14,454 00	\$14,748 00
Net revenue .....	*\$6,451 00	\$3,867 00
Deficit.....		

The defendant introduced no evidence to indicate the probable consumption in kilowatt hours and the figure used in both cases in the above table is derived from complainant's Exhibit No. 2. The estimated cost per kilowatt hour of energy delivered to complainants' meters and the consumer costs as used in this computation are derived from the average experience of Midland Counties Public Service Corporation as shown by its 1916 annual report to the commission.

It appears that if the facts are as stated in the complainants' testimony the distribution system proposed herein is entirely justifiable from an economic standpoint. The principal difference of opinion lies in the probable gross revenue, which, as hereinbefore stated, was fully substantiated on the part of complainants by their sworn witnesses, defendants introducing no testimony in support of their estimate.

Defendant claimed that it should not be required to make extensions of this nature because of the fact that they involve the use of money and material which at the present time is required for service of the necessary war industries. In this connection it appears that the war industries referred to consist of agricultural and oil well pumping business, for which the prospective consumers are unable to obtain delivery on electric motors. In the face of the inability to render service to such war industries it is difficult to understand how the use of line material

of the Midland Counties Company for the service of complainants herein will interfere with the development of the said war industries. Defendants further allege that on account of the difficulty in obtaining delivery of such materials it would be impossible in any event to construct the proposed extensions within six months from the date of hearing. The principal items of material required are poles, wire and transformers. Mr. Frank Martin, electric superintendent for the Colony Holding Corporation, testified that the colony had twelve transformers which could be turned over to the Midland Counties Company, and which would be sufficient to serve practically all of the proposed consumers. In this connection it might be said that Pacific Telephone and Telegraph Company is at present engaged in the extension of its service throughout the colony, and it is suggested that defendants endeavor to arrange with the telephone company for joint use of its poles.

Defendant further urged that it should not be required to furnish the proposed extensions on the ground that the most remunerative portion of the load is already being served with the present lines, in which defendant has an investment of only \$3,870.00, and that the additional business which will be acquired by the expenditure upon the completion of the rest of the system is principally that to be derived from approximately 100 residence consumers, and in itself would not justify the additional investment.

A study of the history of this service indicated that defendant has been fully reimbursed for its investment in the existing service facilities. The commission has always taken the position that public utility companies should properly be expected to combine the less remunerative services with those that are very profitable, and in this instance it is our opinion that all of the business involved herein, as set forth in complainant's Exhibit No. 2, should properly be considered as a unit.

Some question was raised by defendants as to the possibility of the premature abandonment of this colony. Complainants are at the present time bona fide residents of this territory and the commercial enterprises are active going concerns, and under these circumstances we do not believe defendant's contention in this regard is material to the matter herein.

#### ORDER.

W. B. Ewalt and others having filed with this commission a complaint against the Midland Counties Public Service Corporation, and the Midland Counties Public Service Corporation having filed with the commission its answer, and a hearing having been held, and the commission finding that defendant should extend its electric distribution lines

in that portion of San Luis Obispo County known as the Atascadero Colony,

*It is hereby ordered* that the defendant, Midland Counties Public Service Corporation, be and the same is hereby ordered, within sixty days from the date of this order, to serve with electric energy the persons desiring the same and residing in that portion of San Luis Obispo County known as the Atascadero Colony, as delineated in Exhibit "A," attached to the complaint herein, which exhibit is hereby referred to and made a part hereof.

Dated at San Francisco, California, this thirteenth day of March, 1918.

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Decision No. 5203.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA SOUTHERN RAILROAD COMPANY FOR A FINDING THAT CERTAIN NON-OPERATIVE PROPERTIES ARE NOT NECESSARY OR USEFUL IN THE PERFORMANCE OF APPLICANT'S DUTIES TO THE PUBLIC, WITHIN THE MEANING OF SECTION 51 OF THE PUBLIC UTILITIES ACT, AND WHICH THEREFORE MAY BE SOLD.

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Application No. 3500.

*Decided March 13, 1918.*

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Lands and water stock acquired by a railroad company through grants and donations made in aid of the construction of its line of railway are considered as non-operative property when, as in the present case, all of such parcels are separate and distinct from the right of way and station grounds used by the railroad company.

The sum of \$59,512.83 fixed by applicant as the price at which it proposes to dispose of its nonoperative properties is found to be a fair and reasonable amount for the properties proposed to be transferred, which transfer, it is held, is to the advantage and benefit of the company. Authorization given for transfer, the proceeds thereof to be used by applicant to acquire property, reduce its bonded indebtedness or for such other purposes as may be permitted under its mortgages.

*Ward Chapman*, for Applicant.

*GORDON*, Commissioner.

**OPINION.**

In this application California Southern Railroad Company, which is engaged in operating a steam railway as a common carrier from Blythe Junction to the town of Blythe in Riverside County, asks the commission's permission to dispose of certain nonoperative lands and other properties, and to investigate and satisfy itself that the price of \$59,512.83, for which these properties are to be sold, is a reasonable one and should therefore be approved.

A hearing was held in Blythe in this matter on February 28, 1918.

These properties, generally, consist of all unsold lands acquired by applicant through grants and donations made in aid of the construction of its railroad, aggregating 1,089.36 acres, and also of all applicant's equities and interests in certain real estate under contract of sale, covering approximately 440 acres which were also acquired through grants in aid of construction.

In addition, the proposed sale is to include, according to applicant, all promissory notes, to the number of about 283, aggregating originally the sum of \$18,934.90, as well as all unfulfilled subscription contracts and all of the property rights or interests of the applicant therein.

It will be desirable to review briefly the history and the status of these donated properties. Prior to the commencement of the work on the construction of applicant's railroad the promoters of the enterprise in 1914 and 1915 solicited and obtained from numerous property owners and prospective share owners of the proposed railroad who would be benefited by this construction, subscriptions in the form of contracts to contribute money or other property, to encourage the prosecution of the enterprise and to aid in financing the construction of the road.

Originally all subscription contracts were made in favor of and in the names of the individuals promoting the enterprise or in favor of the Blythe Construction Company, a corporation organized for the purpose of constructing the road, in pursuance with a contract with the railroad.

During the course of construction all subscription contracts and grants or contributions made, became vested in the Blythe Construction Company and, in the large part, were pledged or used in the construction.

In the course of the hearing before this commission in August, 1915, the question arose as to whether the property thus donated and subscribed, and the proceeds arising therefrom, should inure to the benefit of the railroad or whether this benefit should go to the Blythe Construction Company. In the Decision No. 2743, rendered October 4, 1915, this commission required as a condition to authorizing the issuance of bonds and stocks that a statement of all bonuses thus subscribed should be filed, and that all such bonuses or grants, unless otherwise authorized by the commission, should be made payable or assigned to the railroad, and that the proceeds derived should be held for its benefit.

In October, 1915, in compliance with this requirement, the statement of subscriptions was filed with the commission and an assignment was

made by the Blythe Construction Company to the applicant of all its rights, titles or interests in the subscriptions or grants or contributions made for the purpose of constructing the railroad.

This commission in its supplemental Decision No. 2910, dated November 19, 1915, found that applicant had complied with these requirements so that the bonuses would be payable for the benefit of the railroad enterprise.

In the hearing before the commission in August, 1915, heretofore referred to, there was considered also the question of whether a conveyance of 1,000 acres of land in the Palo Verde Valley contracted to be made by the Palo Verde Land and Water Company to one H. L. Martin in pursuance of a contract dated December 1, 1914, whereby said Martin was given an agency for the sale of 11,000 acres of land upon certain terms and conditions therein set forth, and whereby said Palo Verde Land and Water Company also agreed to make two grants of 500 acres each conditional upon the construction of the railroad within certain time limits, was likewise made for the benefit of the railroad company.

At that hearing applicant took the position that this contract was an independent transaction between the parties above named, which contemplated the conveyance of said 1,000 acres of land to said Martin or to his assignee, the Blythe Construction Company, as a part of the consideration of the obligations undertaken by them in connection with the selling agency of the said 11,000 acres of land belonging to the Palo Verde Land and Water Company, and that the contract for the conveyance of said 1,000 acres could not therefore lawfully be treated as a subscription to the railroad enterprise.

This commission, while of a different opinion, made no determination of the question at that time nor at any subsequent time, but through negotiations, thereafter, it was arranged that the Blythe Construction Company should likewise assign the 1,000 acres acquired by it under that contract to the California Southern Railroad Company, but subject, however, to an indebtedness of \$35,000.00, for which that land had been hypothecated and which sum had been used in the construction of the railroad.

Subsequently these lands were pledged for an additional loan of \$10,000.00 which likewise was used in the construction of the road. Accordingly, on June 13, 1917, the Blythe Construction Company assigned all of its interest in said 1,000 acres of land to the applicant herein, subject to the original indebtedness of \$35,000.00 and the later indebtedness of \$10,000.00, or a total indebtedness of \$45,000.00.

While, therefore, the title to the unsold real estate realized from all subscriptions thus made, stands in the name of the Peoples Trust and

Savings Bank of Riverside, in trust for the more convenient handling of the same, as well as security for an indebtedness to that bank, nevertheless all such grants of real estate, including the grant of the 1,000 acres above mentioned, are now owned and controlled by this applicant. Besides the beneficial interest in all real estate contributed or granted in aid of construction of the road thus vested in the applicant, the applicant has succeeded to and become vested with all other rights and equities of the parties to whom the original subscriptions were made, comprising promissory notes, unfulfilled subscriptions, contracts of sale, and other evidences of indebtedness, so that applicant has, ever since the assignment above mentioned, controlled, and still does control, the disposition of all properties of every nature comprising bonus grants or subscriptions.

The character and status of the bonus grants and subscriptions may be classified as follows:

**1. Unsold real estate.**

The original subscriptions call for a total of 2,082.23 acres of land in the Palo Verde Valley; in addition, 160 acres was deeded in lieu of cash subscriptions, making a total acreage called for by subscriptions of 2,242.23 acres.

Applicant informs the commission that of this total, subscriptions for 422 acres were never fulfilled, and probably never will be, notwithstanding persistent efforts to obtain the land. Eighty acres of poor land subscribed and deeded was exchanged for 40 acres of better land, which resulted in a deduction of 40 acres from the total; 60.87 acres were sold outright for cash, and 440 acres have been sold on installment contract. In addition 190 acres, conveyances for which have been offered, have not been accepted by applicant because the incumbrances required to be assumed were deemed to be greater than the value of the land. Deducting these items from the total acreage subscribed, there is left on hand 1,089.36 acres.

The number of acres of real estate which applicant desires to sell, together with a legal description thereof and the appraised value, is set forth in Schedule "A" attached hereto.

There is also indicated in that exhibit the various parcels of land to which water stock of the Palo Verde Mutual Company is appurtenant. Applicant has appraised these parcels of unsold land together with the water stock, and in its application shows an aggregate valuation of land and water stock of \$44,050.00.

**2. Acreage under contracts of sale.**

According to the applicant's statement, 13 sales of land have been made, in most instances through the agency of the California Southern

Realty Company, under an agency or selling contract made between the Blythe Construction Company and said realty company before the assignment of the bonus grants to the railroad company whereby said realty company was appointed the selling agent upon a commission basis of 15 per cent on the selling price, plus an equal division of profits over and above the base price of \$60.00 per acre, and obligating the realty company to assume the expense of advertising and other expenses in finding purchasers. The total number of acres thus sold is 440.

The balance due on the principal is \$36,383.00, and the applicant's share thereof, calculated on the assumption that all instalments will be paid as required by the contracts, and estimating deductions for expenses as nearly as may be is \$27,979.32.

Applicant asks the commission, however, to take into consideration the difficulty and expense of collections of instalments as indicated by past experiences with these contracts. The probability of forfeitures in some instances and the fact that the security for the balances due is not considered sufficient to make the vendor's interests readily marketable, must also be considered. Applicant avers that a discount of not less than 25 per cent must be made for future contingencies. Applicant states that the value of its interest in these contracts, therefore, will not exceed \$20,984.49.

As bearing upon the benefits which applicant derived by reason of the sales contract between the construction company and the realty company heretofore referred to, the applicant, during the hearing at Blythe, was asked to submit to the commission a statement of benefits realized from the sales of lands made through the California Southern Realty Company under the selling contract, read in evidence. This statement, as taken from the books of the California Southern Realty Company, has now been furnished and shows the following items:

Profits realized by California Southern Railroad Company from sales of bonus lands, including the 1,000 acre grant made by the Palo Verde Land and Water Company, over and above the base price provided for in the contract.....	\$5,328 85
Profits realized from sales of lands acquired by the California Southern Realty Company solely through its own efforts and from its own resources independently of bonus lands or any lands belonging to the California Southern Realty Company and credited to the California Southern Realty Company as its share of the profits under selling contract .....	19,430 64
Total .....	\$24,759 49
Amount paid to the California Southern Railroad Company on the above account .....	7,421 64
Balance remaining to be paid to California Southern Railroad Company as collections are made from existing contracts.....	\$17,357 85

From the above balance, however, there will be deducted the railroad company's share of small incidental expenses necessary to be incurred in transferring the title, bringing down certificates, escrow and trustees' charges, as the various transactions are closed, but accrued interest will more than offset these charges. This interest, therefore, has turned out to be a very advantageous asset to the applicant.

**3. Water stock of the Palo Verde Mutual Water Company.**

One thousand and thirty-two shares of water stock is held by the Peoples Trust and Savings Bank of Riverside as the trustee for the applicant. These shares, according to applicant's statement, have either been sold or contracted to be sold with the land under contract as above set forth and are included in the appraised value of the balances due on these contracts, and the value, therefore, is included in the appraised value of the land to which the shares are appurtenant.

**4. Promissory notes.**

Applicant has in its possession or under its control 283 promissory notes, ranging in amount from \$12.50 to \$400.00. Most of these notes are long past due. The aggregate total face value of the principal of all notes is \$18,934.90, and, as stated in the application, only \$283.77 of this amount has been collected on the principal of these notes in cash, and \$80.70 on the interest, although credit has been given on the principal for merchandise and labor in the sum of \$750.22, and on the interest \$47.90. The balance due on the principal, therefore, is \$17,900.91, and the balance due on accrued interest is \$2,021.50, making a total balance due of \$19,922.41.

Applicant's statement as to the present value of these promissory notes is as follows:

"Many of the makers of these promissory notes are judgment proof; many have left the valley and efforts to get into communication with them have failed. Past effort to collect upon the notes has met with so little success that it is next to impossible to estimate what amount might be realized thereon or what the notes might be sold for, but it is safe to say that a fair market value would not be in excess of 25 per cent of the balance due, or a total of \$4,980.60."

**5. Miscellaneous subscriptions.**

Besides the subscriptions payable in land as hereinbefore set forth, other subscriptions were made payable in other commodities or in other ways, aggregating a total of \$104,131.00; of those subscriptions a total of \$18,684.90 was fulfilled by the giving of notes, and are included in the foregoing summary with reference to the notes.



Subscriptions aggregating \$25,570.92 were paid in cash and applied to applicant's benefit; \$26,478.20 of said subscriptions was paid in supplies furnished, team hire or labor performed during the construction period, for which, also, applicant received due credit; 160 acres of land was also deeded in lieu of cash subscriptions, and is included in the summary of real estate as hereinbefore shown. The balance of said subscriptions aggregating on their face a total of \$33,396.98 have never been paid or fulfilled in any way, and the prospects of realizing anything further are so remote and improbable that no attempt has been made by applicant to make an estimate of present value.

**6. Contracts for real estate unfulfilled.**

As stated above, subscriptions which called for real estate aggregating a total of 422 acres were made but never fulfilled. In view of the failure of past efforts and the unpromising prospects of ever being able to realize anything from those subscriptions, it is not probable that whatever property rights pertain to those subscriptions are of any substantial value. Applicant therefore makes no estimate of present value.

The foregoing comprises a summary of all undisposed assets belonging to applicant and realized from bonus subscriptions or grants in aid of construction of the railroad. The valuation placed on these assets, without considering the unfulfilled subscriptions, aggregate a total of \$70,015.09, and applicant believes that this amount is a fair estimate of the sum that can be realized. For the purposes of sale as a whole, however, a further deduction should be made, in the opinion of the applicant, to offset or to anticipate the carrying expense over the period of time that must elapse before these assets can be realized upon, and on that account and for the purpose of arriving at a fair selling price for the whole and for cash, a discount of 15 per cent is deemed by applicant reasonable, making the total selling price \$59,512.83.

I have given this general description of the property in consideration in this application in order that the two questions before the commission may properly be determined. These questions are:

*First:* Should the property referred to be classed as nonoperative, that is, is it unnecessary for the efficient operation of the railroad and for the convenience of the public served by this road?

*Second:* What is a fair present value, under the circumstances, for these properties?

The first question I have no hesitancy in answering in the affirmative. So far as the lands are concerned, they are all distant or separate from the right of way and station grounds used by the railroad, and in fact

are scattered in individual and disconnected parcels throughout the length and width of the valley. None of the property has any prospective use as part of the operative system for any purpose or in any sense whatever.

It also appears that the applicant's board of directors has the written assent of the holders of more than 90 per cent of applicant's capital stock that it would be to the best interest of applicant as well as of its stockholders, and of the public generally, to dispose of all its non-operative assets as a whole for such a price as may fairly be obtained.

The fact is to be remembered, also, that the remaining real estate is practically nonincome-producing, and the expenses of maintenance, of taxes, of assessments upon water stock, etc., is not only a drain upon applicant's resources which are needed for other purposes, but will likely more than offset any expected increase in value if it were attempted to hold these lands for future disposition. This will more clearly appear by reference to Exhibit B attached to the application, being the schedule of expenses and disbursements for assessments upon water stock, taxes and other maintenance charges incurred in connection with the holding of this real estate.

The reasons which make it advantageous for the railroad company to dispose of these nonoperative bonus lands are equally cogent in the case of the other nonoperative items as listed above.

The second question as to the fair value of this nonoperative property is more difficult to answer. Taking into consideration, however, the facts surrounding these grants and donations, I have reached the conclusion that the value put upon this property as a whole by applicant is fair and liberal.

In my opinion, the railroad company, if it can realize the total amount of \$59,512.83 and be rid, in the future, of the increasing expense and difficulties attached to these nonoperative properties, will not have made a bad bargain. This conviction on my part is strengthened by the personal inspection which I made of the majority of the parcels of land remaining in applicant's hands, and by the securing of the opinion of the commission's engineering department, which also made an inspection of those lands and which came to a similar conclusion, *i. e.*, that the values assigned to the individual parcels by applicant may be considered as fair.

Applicant has an authorized bond issue of \$750,000.00 divided into \$350,000.00 of first mortgage 6 per cent gold bonds, payable July 1, 1955, and \$400,000.00 of Class "B" 6 per cent gold bonds, payable July 1, 1955. The Class "B" bonds are in effect a second mortgage bond. Applicant's reports filed with the Railroad Commission show

\$213,000.00 of the first mortgage and \$262,000.00 of the second mortgage bonds outstanding. Both the first and second mortgages contain the usual after-acquired property clause. It appears to me that when the bonus subscriptions, donations, etc., were assigned to applicant, the lien of applicant's mortgages attached thereto. Apparently it can release the properties it now desires to sell from the lien of its mortgages only if it complies with Article V of the first and Article V of its second mortgage. Section 1, of Article V, reads in part as follows:

"SECTION 1. Upon the written request of the railroad company evidenced by resolution of its board of directors, the trustee, from time to time while the railroad company is in possession of the mortgaged premises and property, but subject to the conditions and limitations in this section prescribed and not otherwise, shall release from the lien and operation of this indenture any part of the real estate hereby mortgaged and conveyed; provided (1) that no part of the lines of track or of the rights of way shall be released unless the same shall no longer be of use in the operation of any of the mortgaged lines of railroad, and that no part of such lines of track or rights of way shall be so released if thereby the continuity of the lines of railroad of the railroad company hereinbefore particularly described or between the respective termini above mentioned shall be broken; and (2) that no part of the mortgaged railroads or other property shall be released hereunder unless at the time of such release it shall no longer be necessary or expedient to retain the same for the operation, maintenance or use of the remaining lines of railroad, or for use in conducting the business of the railroad company.

No such release shall be made under this section unless the railroad company shall have sold or shall have contracted to exchange for other property or to sell the property so to be released, or shall, for the purpose of improving its alignment or the arrangement of its terminals or railroad facilities, have substituted for the property released other property having the same general purpose and of a value equal to or greater than that of the property so released; or unless the proceeds of any and all such sales, and all moneys received as compensation for any property subject to this indenture shall be paid to the trustee to be held in trust and paid out for the acquisition of other property or the redemption of bonds hereunder."

At the hearing applicant stipulated that it would use the proceeds from the sale of the properties for the reduction of its funded and other indebtedness. It appears to me that if the properties are subject to the lien of applicant's mortgages the proceeds can only be used for such purposes as are specified in the mortgages. The question of modifying or amending these instruments is not before the commission at this time.

I herewith submit the following form of order:

**ORDER.**

California Southern Railroad Company having made application to the Railroad Commission, as appearing in the opinion preceding this order, a public hearing having been held and this proceeding having been submitted and being ready for decision,

*It is hereby ordered* that California Southern Railroad Company be and it is hereby granted authority to sell and convey its certain non-operative properties described in Schedule "A" attached hereto, and such other properties as are described in the opinion which precedes this order for a sum of not less than \$59,512.83 and to use the proceeds from the sale of said properties to acquire other properties, redeem bonds or for such other purposes as permitted under its mortgages, upon the condition that applicant file with the Railroad Commission on or before the twenty-fifth day of each month a verified report containing a description of the properties sold during the preceding month, the consideration received therefor and the purposes for which the proceeds obtained from the sale of the properties have been used.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirteenth day of March, 1918.

SCHEDULE "A."

In Exhibit "A" attached to the petition herein, California Southern Railroad Company describes its "unsold bonus real estate" or acreage involved in "bonus subscriptions;" as follows:

Description of acreage	Section	Township	Range	Number of acres	Water stock outfit ratio	Appraised value per acre	Condition of title and remarks
NE. 1 of NE. 1 of NW. 1	34	7	22	10	---	\$10.00	Clear, deed with People's Trust and Savings Bank.
NW. 1 of NE. 1 of NW. 1	34	7	22	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
NE. 1 of NW. 1 of NW. 1	34	7	22	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
NW. 1 of NW. 1 of NW. 1	34	7	22	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
N. 15 acres of W. 1 of NE. 1 of SE. 1	22	6	23	15	.922	750.00	Clear, deed with People's Trust and Savings Bank.
N. 10 acres of NW. 1 of NW. 1	20	7	22	10	---	200.00	Clear, deed with People's Trust and Savings Bank.
NE. 1 of NE. 1 of NE. 1	26	7	22	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
S. 1 of S. 1 of SE. 1 of NE. 1	27	7	22	10	---	200.00	Clear, deed with People's Trust and Savings Bank.
N. 1 of W. 1 of W. 1 of SW. 1 of SE. 1	32	7	22	5	---	50.00	Clear, deed with People's Trust and Savings Bank.
S. 1 of W. 1 of W. 1 of SW. 1 of SE. 1	32	7	22	5	---	50.00	Clear, deed with People's Trust and Savings Bank.
SW. 1 of SW. 1 of SE. 1	35	8	21	10	---	50.00	Clear, deed with People's Trust and Savings Bank.
SE. 1 of SW. 1 of SW. 1	2	8	22	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
E. 10 acres, lot 3	---	8	22	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
E. 1 of SE. 1 of NW. 1	12	8	22	20	---	100.00	Clear, deed with People's Trust and Savings Bank.
SW. 1 of SE. 1 of NW. 1	15	8	22	10	---	200.00	Clear, deed with People's Trust and Savings Bank.
S. 1 of S. 1 of SW. 1 of NW. 1	15	8	22	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
NW. 1 of NE. 1 of NW. 1	15	9	21	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
S. 1 of SW. 1 of SE. 1	15	8	22	20	---	50.00	Clear, deed with People's Trust and Savings Bank.
NW. 1 of NE. 1 of NE. 1	24	7	22	10	---	300.00	Clear, deed with People's Trust and Savings Bank.
NE. 1 of NE. 1 of NW. 1	26	8	22	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
SE. 1 of SE. 1 of SE. 1	1	8	22	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
SE. 1 of SE. 1 of SE. 1	15	8	22	20	---	300.00	Clear, deed with People's Trust and Savings Bank.
W. 1 of NW. 1 of NE. 1	22	8	22	20	---	300.00	Clear, deed with People's Trust and Savings Bank.
S. 1 of S. 1 of SW. 1	24	7	22	10	---	200.00	Clear, deed with People's Trust and Savings Bank.
S. 1 of S. 1 of SW. 1 of SE. 1	25	8	21	10	---	150.00	Clear, deed with People's Trust and Savings Bank.
NW. 1 of NW. 1 of NE. 1	24	7	22	10	---	100.00	Clear, deed with People's Trust and Savings Bank.
NE. 1 of NW. 1	22	8	22	40	---	900.00	Clear, deed with People's Trust and Savings Bank.

NW. 1/4 of NW. 1/4 of NW. 1/4 W. 1/4 of NW. 1/4 of NE. 1/4 and NW. 1/4 of SW. 1/4 of NE. 1/4 E. 10 acres of NW. 1/4 of NW. 1/4 Portion of parcel M NW. 1/4 of SW. 1/4 NE. 1/4 of SW. 1/4 E. 30 acres of SE. 1/4 of NE. 1/4 E. 30 acres of NE. 1/4 of SE. 1/4 SE. 1/4 of SE. 1/4 W. 1/4 of W. 1/4 of SW. 1/4 SW. 1/4 of NW. 1/4 W. 22.07 acres of NW. 1/4 of NW. 1/4 W. 1/4 of SW. 1/4 W. 1/4 of SE. 1/4 W. 1/4 of NW. 1/4 of NE. 1/4 E. 1/4 of NW. 1/4 N. 1/4 of NW. 1/4 SW. 1/4 of SW. 1/4	26 30 4 32 9 16 16 16 15 30 33 18 30 30 3 19	6 7 7 6 7 7 7 7 7 30 7 8 8 8 7 8	22 22 23 23 23 23 23 23 23 23 22 22 22 22 23 22	10 30 10 26.13 40 40 30 40 40 42.72 22.67 80 20 20 79 43.84	100 00 450 00 500 00 5,000 00 2,000 00 2,000 00 2,700 00 1,800 00 1,600 00 1194 1195 1198 1198 1,000 00 4,500 00 3,600 00 2,000 00 \$43,950 00	Clear, deed with People's Trust and Savings Bank. Clear, deed with People's Trust and Savings Bank. Clear, deed with People's Trust and Savings Bank. Clear, deed with People's Trust and Savings Bank. Pledged for loan of \$45,000.00 from People's Trust and Savings Bank assumed by applicant.
Totals	1089.36					

In Exhibit No. 2, filed at the hearing on this application February 28, 1918, California Southern Railroad Company describes its real estate subject to sales contracts as follows:

Description of acreage	Section	Township	Range	Number of acres	Water stock certificate	Appraised value real estate	Condition of title and remarks
SW. 1/4 of SE. 1/4 of SE. 1/4	30	6	23	10	989	\$1,000 00	People's Trust and Savings Bank has deed for entire section.
A parcel, 170 feet by 225 feet of parcel M.	32	6	23	1			Deed to Southern Sierras Power Co.
10 acres of NE. 1/4 of SE. 1/4	4	7	23	10			Deed said to be held in escrow awaiting water stock settlement.
SE. 1/4 of SE. 1/4	4	7	23	40		3,250 00	
S. 1/2 of SW. 1/4 of SE. 1/4	14	7	22	20		1,200 00	
S. 1/2 of NW. 1/4	4	6	23	80		5,000 00	Said to be with realty company.
NE. 1/4 of SW. 1/4*		4	6	40	879	5,500 00	People's Trust and Savings Bank.
NW. 1/4 of SW. 1/4*		4	6	40	879		People's Trust and Savings Bank.
N. 1/2 of NE. 1/4*	15	6	23	80	1209	5,600 00	People's Trust and Savings Bank.
SW. 1/4 of NE. 1/4*		4	6	40	1170		People's Trust and Savings Bank.
SE. 1/4 of SE. 1/4	9	7	23	40	1209		
NE. 1/4 of SE. 1/4		9	7	40			Deeds with People's Trust and Savings Bank.
W. 1/4 of SW. 1/4 of NW. 1/4*	15	7	23	20	1194	800 00	People's Trust and Savings Bank.
NE. 1/4 of NE. 1/4	10	6	23	40			Deeded to B. W. Smith.

\*Subject to \$15,000.00 loan.

## DECISION No. 5205.

## PENINSULA RAPID TRANSIT COMPANY

vs.

R. S. FRIEND, GIUSEPPI IMPERIALE, FLOYD HANCHETT, OTTO RINCKERT, NICHOLAS LOCICERO AND CALIFORNIA STAGES COMPANY.

Case No. 1192.

*Decided March 14, 1918.*

An individual operating an automobile bus line subject to the jurisdiction of this commission, who does not operate upon his regular published schedule or in accordance with the rules and regulations of the Railroad Commission, is subject to having his right to operate revoked.

Petition of complainant that the commission revoke the rights of defendants to operate auto stages for the transportation of passengers between San Francisco and San Jose, dismissed, provided defendant Friend, having ceased to operate, it is held that he has lost his right to run on the above route.

*J. E. McCurdy*, for Peninsula Rapid Transit Company.

*C. B. Gillespie*, for Davis-Schaub Auto Service.

*John V. Filippini* and *W. W. Allen*, for defendants other than R. S. Friend.

*R. S. Friend*, *in propria persona*.

*THELEN*, *Commissioner*.

## OPINION.

The complainant herein alleges, in effect, that Peninsula Rapid Transit Company is engaged in the business of operating a line of auto stages as a common carrier between San Francisco and Palo Alto and intermediate points; that the defendants are engaged in the business of operating a line of auto stages as common carriers between San Francisco and San Jose and intermediate points; that the defendants have not operated and do not operate their auto stages in accordance with the schedules filed with the Railroad Commission; that defendants have lost their rights to operate between San Francisco and San Jose and that it is incumbent upon them, if they desire to continue to operate, to secure from the Railroad Commission certificates of public convenience and necessity; and that no applications for such certificates have been filed with the commission. The complainant asks the Railroad Commission to make its order requiring the defendants to make application for certificates of public convenience and necessity and to comply with the provisions of the statutes of this state with reference to transportation companies operating auto stages as common carriers.

The answers deny the material allegations of the complaint.

Public hearings herein were held in San Francisco on February 20 and 26 and March 7, 1918.



The complainant has been engaged since May 22, 1915, in operating a line of auto stages as a common carrier between San Francisco and Palo Alto. At Palo Alto connection is made with a line of auto stages operated between Palo Alto and San Jose by the Davis-Schaub Auto Service. Complainant operates 26-passenger auto stages on a 20-minute schedule during part of the day and on a 30-minute schedule during the remaining portions of the period, from 5.05 a.m. to 1.25 a.m. the next morning. Forty-six trips per day are made from Palo Alto to San Francisco and 49 trips from San Francisco to Palo Alto.

The defendants, R. S. Friend, Guiseppi Imperiale, Floyd Hanchett, Otto Rinekert and Nicholas Locicero were engaged on May 1, 1917, and for some time prior thereto, in operating a line of auto stages between San Francisco and San Jose, each of said defendants owning his own automobile and operating in his own right, although the defendants operated collectively under the name of White Star Stages. About October, 1917, said defendants changed the name of their line to California Stages Company. On October 3, 1917, said five defendants entered into articles of copartnership, but it appears clearly that their operations have not been conducted in conformity with the provisions of said articles.

The defendant R. S. Friend ceased operating on this route during the latter part of December, 1917, and withdrew from the partnership, and it is conceded that he has lost his rights to run on this route.

The other four individual defendants have continued to operate, each now owning two automobiles, under the name of California Stages Company.

The testimony shows irregularities of service on the part of some of the defendants in 1917, consisting principally of failure to run on schedule time and failure to run at all in case the desired number of passengers did not offer themselves for transportation. The testimony also shows, however, that during 1918 the four individual defendants who were still operating have striven to run on schedule time and to obey the rules and regulations of the Railroad Commission applicable to interurban auto service.

The testimony also shows that for a time during the latter part of 1917, persons who were not authorized so to do operated auto stages more or less regularly, between San Francisco and San Jose under the name of "California Stages Company," but that the defendants in this proceeding, who alone have the right to use this name on this run, succeeded in driving these persons off this run. It is obviously the duty of these defendants to prevent persons who are not their employees from operating auto stages under the name of "California Stages Company."

The last scheduled run of the defendants from Fifth and Market streets, San Francisco, is 8.20 p.m. The testimony shows that subsequent to this time a large number of "rent" cars driven by more or less responsible drivers, operate from the stand of these defendants in San Francisco to Camp Fremont. The attention of the defendants was drawn at the hearing to the large number of passengers who offer themselves for carriage subsequent to 8.20 p.m. and to the desirability of lengthening their schedule so as to give to the public a more regular and dependable service after this time at night.

While I am of the opinion that an order declaring that any of the individual defendants other than Friend, have forfeited their right to operate between San Francisco and San Jose, would not be justified by the testimony in this proceeding, the attention of each of said defendants was specifically directed at the hearing to the necessity of continuing to comply with their schedules and of obeying the rules and regulations of the Railroad Commission applicable to this class of service. The attention of each of said defendants was drawn to the fact that unless schedules are maintained and the commission's rules and regulations are complied with, any defendant not complying with his schedule or with said rules and regulations is liable to have his right to operate revoked.

I submit the following form of order:

**ORDER.**

Public hearings having been held in the above-entitled proceeding and the same having been submitted and being now ready for decision,

*It is hereby ordered* that the above-entitled complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fourteenth day of March, 1918.

DECISION No. 5206.

IN THE MATTER OF THE APPLICATION OF TIDEWATER SOUTHERN RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE SALE OF ITS FIRST MORTGAGE FIVE PER CENT THIRTY YEAR GOLD BONDS IN THE AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS.

Application No. 3510.

*Decided March 14, 1918.*

Applicant authorized to issue \$500,000.00 face value of its 5 per cent first mortgage bonds to be sold at not less than 80, of the proceeds the sum of \$421,295.00 to

be expended for improvements and extensions to its properties, the sum of \$186,650.00 for an extension, Hilmar to Stevenson and the sum of \$98,827.00 to discharge an account due Western Pacific Railroad Company covering supplies furnished.

*A. P. Matthew and R. W. Macdonald*, for Applicant.

*Gordon*, *Commissioner*.

#### OPINION.

Tidewater Southern Railway Company asks authority to issue \$500,000.00 of its 5 per cent first mortgage bonds payable April 15, 1942. It desires authority to sell the bonds at a price which will yield it 80 per cent of their face value. Applicant proposes to use the proceeds from the sale of its bonds to complete its present operated line of railroad from Stockton to Turlock and Hilmar, to complete a branch line at present operated from a station on its main line at Small to Manteca and to extend its main line from Hilmar to Stevenson.

In Exhibit "A" attached to the petition herein, applicant reports its assets and liabilities as of December 31, 1917, as follows:

<i>Assets.</i>	
Road and equipment.....	\$2,260,639 15
Sinking fund .....	22,704 03
Cash .....	87,592 78
Accounts receivable .....	30,164 12
Materials and supplies .....	9,593 70
Discount on funded debt .....	77,201 22
Unadjusted debit items .....	84,172 02
Total assets .....	\$2,572,037 62
<i>Liabilities.</i>	
Stock outstanding .....	\$1,795,703 00
Premium on stock .....	34,488 65
Funded debt:	
First mortgage 5 per cent 30-year gold bonds, dated	
April 15, 1912 - outstanding .....	\$466,500 00
Less first mortgage bonds held by this company .....	6,500 00
	460,000 00
Note due Western Pacific Railroad .....	54,000 00
Audited accounts and wages payable.....	152,689 02
Miscellaneous accounts payable.....	77,275 89
Matured interest unpaid.....	2,300 00
Accrued interest payable.....	4,797 72
Unadjusted credits .....	6,992 56
Corporate surplus - loss .....	\$37,675 47
Less sinking fund payments.....	20,866 25
Net loss .....	16,809 22
Total liabilities .....	\$2,572,037 62

For the years ending December 31, 1916 and 1917, applicant has reported revenues and expenses as follows:

Item	1917	1916
Railway operating revenues.....	\$187,418 04	\$129,952 27
Railway operating expenses.....	161,740 23	96,521 51
Net revenue- railway operations.....	\$25,677 81	\$33,430 76
Railway tax accruals.....	10,163 83	9,239 34
Railway operating income.....	\$15,513 98	\$24,191 42
Other income—		
Net income from miscellaneous physical property..	846 40	535 50
Gross income .....	\$16,360 38	\$24,726 92
Deductions from gross income—		
Net loss on miscellaneous physical property.....	\$16 84	\$267 21
Interest on funded debt.....	22,664 97	20,888 92
Interest on unfunded debt.....	5,093 29	8,517 84
Amortization of discount on funded debt.....	3,258 64	4,681 20
Total deductions from gross income.....	\$31,033 74	\$34,355 17
Net loss .....	*\$14,673 36	*\$9,628 25

\* Loss.

The variations in applicant's surplus account for 1916 and 1917 are shown by the following statement:

Item	1917	1916
Accumulated loss beginning of year.....	\$21,212 04	\$11,559 14
Miscellaneous credits .....	16,869 93	2,157 14
	\$4,342 11	\$9,402 00
Debits—		
Loss from income account.....	\$14,673 36	\$9,628 25
Appropriations for sinking fund.....	18,600 00	1,943 75
Miscellaneous .....		238 04
Accumulated loss end of year.....	\$37,675 47	\$21,212 04

Applicant's reports show that its operating revenues increased from \$129,952.27 in 1916 to \$187,418.04 in 1917. During this period the passenger revenues increased from \$51,056.07 to \$58,215.93, the freight revenues from \$76,597.38 to \$124,478.20, and the miscellaneous operating revenues from \$2,298.82 to \$4,723.91. The operating expenses increased from \$96,521.51 in 1916 to \$161,740.23 in 1917. The increase in operating expenses is in part due to the increase in the amount of traffic handled, in part to the increased cost of operations, and in part to the rent of equipment. Applicant proposes to use \$39,000.00 of the proceeds from the sale of the \$500,000.00 of bonds to purchase two freight

motors, a steam locomotive and a gasoline car. Through the purchase of this additional equipment applicant reports that it will be able to materially reduce its operating expenses.

In Exhibit "B" attached to the petition herein applicant reports the purposes for which it desires to expend the proceeds from the sale of the \$500,000.00 of bonds as follows:

Clark Ortega cut-off-----	\$8,000 00
Stockton to Modesto spur tracks-----	400 00
Modesto to Turlock-----	14,300 00
Hatch to Hilmar-----	14,900 00
Modesto terminal property-----	2,000 00
Turlock terminal property-----	2,500 00
Small to Manteca-----	25,875 00
Freight warehouse-----	16,000 00
Equipment-----	39,000 00
	<hr/>
	\$122,975 00
Extension, Hilmar to Stevenson (8 miles)-----	186,650 00
	<hr/>
	\$309,625 00
Due Western Pacific Railroad for rail and fastenings furnished-----	98,827 00
	<hr/>
Total-----	\$408,452 00

Applicant has completed and is operating its line of railway from Stockton to Modesto via Escalon, a distance of 33.1 miles. In addition, the company is operating, though uncompleted, a branch line from Small, a station on its main line, 7.9 miles from Stockton, to Manteca, a distance of three and one-half miles, and the main line from Modesto to Hilmar, a distance of about 17.9 miles, together with a branch line from Hatch, a station on the main line, to Turlock, a distance of about six miles. The main and branch line mileage being operated, though the construction has not been entirely completed, amounts to about 27.4 miles. The work still to be done on this mileage consists of grading, ballasting, fencing, concreting culverts, bonding rail, improving road crossings, etc. For these various purposes applicant proposes to spend \$77,975.00 of the proceeds from the sale of its \$500,000.00 of bonds. Applicant proposes to extend its main line from Hilmar to Stevenson, a distance of eight miles. The cost of this extension is reported at \$186,650.00. The extension will run parallel to the east side of the San Joaquin Valley main line of the Southern Pacific and will be located from five to six miles west of said line. The San Joaquin River is from two to four miles west of the proposed extension of the Tidewater Southern. The extension will open up, according to the testimony in this proceeding, a rich agricultural section which is in need of railway transportation facilities.

The engineering department of the Railroad Commission has checked the estimated expenditures reported by the Tidewater Southern in its

Exhibit "B" and finds the same to be reasonable and properly chargeable to capital account with the exception of \$680.00 representing replacement of ties in Hunter street in Stockton and \$1,000.00 representing the estimated cost of taking up track to be used on the Small-Manteca branch. The commission's engineers are of the opinion that these amounts are more properly chargeable to operating expenses than to capital account. I am inclined to agree with the views of the commission's engineers and believe that the \$1,680.00 mentioned should not be capitalized through the issue of bonds.

The Western Pacific Railroad Company through stock ownership controls the Tidewater Southern Railway Company. It has purchased at 80 the \$600,000.00 par value of stock which the Railroad Commission has authorized the Tidewater Southern Railway Company to issue by Decision No. 3931, dated December 13, 1916 (Vol. 12, Opinions and Orders of the Railroad Commission of California, page 62). From stockholders the Western Pacific has acquired additional stock in the amount of \$537,968.00. On December 31, 1917, Western Pacific owned \$1,137,968.00 par value of the outstanding \$1,795,703.00 of Tidewater Southern Railway Company stock. The Western Pacific in addition to purchasing \$600,000.00 of stock has advanced to the Tidewater Southern \$54,600.00, which is represented by a note, and has sold it rails and fastenings costing \$98,827.00. The major portion of the rails and fastenings have been used in extending the line of the Tidewater Southern from Modesto to Hilmar.

The Western Pacific has agreed to purchase the \$500,000.00 of bonds of the Tidewater Southern Railway Company at 80. It is materially interested in the extension of the Tidewater Southern line and looks upon it as a valuable feeder and for that purpose is willing to advance to it through the purchase of bonds additional funds to enable applicant to extend its lines farther south into the San Joaquin Valley. The funds for that purpose are now in the Western Pacific treasury.

I herewith submit the following order:

**ORDER.**

Tidewater Southern Railway Company having applied to the Railroad Commission for authority to issue \$500,000.00 of bonds, a hearing having been held and the commission being of the opinion that the money, property or labor to be procured by such issue is reasonably required for the purpose or purposes specified in the order, and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Tidewater Southern Railway Company be and it is hereby granted authority to issue \$500,000.00 of its first mort-

gage 5 per cent bonds, payable April 15, 1942, upon the following conditions and not otherwise:

1. The bonds herein authorized to be issued shall be sold by applicant for cash at not less than 80 per cent of their face value.

2. The proceeds obtained from the sale of the bonds herein authorized to be issued shall be used by applicant to pay in part for the completion and extension of its line of railway, the cost of which, as reported by applicant in Exhibit "B" and modified as indicated in the foregoing opinion, is as follows:

Clark Ortega cut-off.....	\$7,320 00
Stockton to Modesto spur tracks .....	400 00
Modesto to Turlock .....	14,300 00
Hatch to Hilmar .....	14,900 00
Modesto terminal property .....	2,000 00
Turlock terminal property .....	2,500 00
Small to Manteca .....	24,875 00
Freight warehouses .....	16,000 00
Equipment .....	39,000 00
	<hr/>
	\$121,295 00
Extension Hilmar to Stevenson (8 miles).....	186,650 00
Due Western Pacific Railroad for rail and fastenings .....	98,827 00
	<hr/>
Total .....	\$406,772 00

3. The authority herein granted to issue bonds shall not become effective until applicant has obtained the necessary authority to issue said bonds from the Director General of Railroads or such other federal authority, if any, as may have jurisdiction over the issue of said bonds.

4. Tidewater Southern Railway Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to this commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

6. The authority herein granted shall apply only to such bonds as shall have been issued on or before November 15, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fourteenth day of March, 1918.

## DECISION No. 5207.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR PERMISSION TO DISCONTINUE HANDLING OF LESS THAN CARLOAD NONPERISHABLE FREIGHT AT ITS DRUMM STREET STATION, SAN FRANCISCO, CALIFORNIA.

Application No. 3437.

*Decided March 15, 1918.*

It is held that a saving in equipment amounting to four cars per day used in transfer service between applicant's Drumm and King streets stations does not warrant the inconvenience to which shippers would be put through the proposed restrictions on outbound and inbound less carload freight moving through the Drumm street station of applicant.

Petition of Southern Pacific Company for permission to put into effect a rule prohibiting the movement of less carload freight through its Drumm street station except under certain restrictive conditions denied without prejudice to its renewal when the present congested and troublesome conditions at its King street station have been improved.

*Elmer Westlake*, for Applicant.

*Seth Mann* and *Harry E. Stocker*, for San Francisco Chamber of Commerce, Protestant.

*Felix Gross*, for Draymen's Association, Protestant.

LOVELAND, *Commissioner*.

## OPINION.

Applicant maintains two freight stations in San Francisco, the principal one of which is located in the southern part of the city, in the immediate neighborhood of Fourth and King streets, and handles all classes of freight, both carloads and less. Under the jurisdiction of and operated as a part of the King street facilities is a platform and shed at Sixteenth and Harrison streets, approximately 1.2 mile distant, at which L.C.L. outbound freight is received.

The other, which is known as Drumm street station, is situated some two miles from the King street yard, on the north side of town in the fruit and vegetable district, and handles carload freight, both inbound and outbound, with the exception of certain specified commodities consisting of bulky freight and articles which, on account of their nature, are dangerous or objectionable. Less than carload freight handled at this station is restricted to movement to or from points in the following territory and in many instances is further confined to fresh fruit and vegetables:

*Western division—*

San Francisco to Stockton, Cal., inclusive.

San Ramon Branch, Avon to Radum, Cal., inclusive.

Benicia to Suisun, Cal., inclusive.

Napa Branch, Suisun to Calistoga, Cal., inclusive.

Buchli to Union, Cal., inclusive.



Santa Rosa Branch, Napa Junction to Santa Rosa, Cal., inclusive.  
Napa Junction to South Vallejo, Cal., inclusive.  
Suisun to Elmira, Cal., inclusive.  
Rumsey Branch, Elmira to Rumsey, Cal., inclusive.  
San Francisco to San Jose, Cal., inclusive (via Oakland, Cal.).

*Stockton division --*

Stockton to Elk Grove, Cal., inclusive.

*Coast division --*

Points south of San Jose to Santa Cruz, Cal. (via Glenwood, Cal.), inclusive.

It will be seen that the territory to or from which less than carload freight is handled at Drumm street comprises only a small portion of the whole.

Applicant proposes to amend its present rule governing the handling of less than carload freight at this station to read as follows:

(a) No outbound or inbound less carload freight will be handled at Drumm street station, except as provided in paragraphs *b* and *c*.

(b) Shipments of outbound or inbound less carload freight moving under Rules of G. F. D. Circular No. 211-W (C. R. C. No. 2137) will be handled at Drumm street station, provided same are loaded or unloaded by shipper or consignee on team or industry tracks.

(c) Inbound less carload shipments of fresh fruit and fresh vegetables will be delivered at this company's Drumm street station, San Francisco, Cal., when from the following territory, providing consignees will take delivery of such freight at the car door.

The territory mentioned in paragraph (c) is the same restricted area to and from which less than carload freight is now handled at Drumm street station.

The practical effect of proposed change will be to confine less than carload shipments, outbound, to perishable freight and packing house products loaded on team or industry tracks, in refrigerator cars iced at shipper's expense and subject to minimum of 10,000 pounds, and to confine inbound less than carload shipments to the same class of refrigerated freight as handled outbound, in addition to which less than carload shipments of fresh fruit and vegetables will be delivered at Drumm street station from aforementioned restricted area, provided delivery of such freight is taken at car door. No change whatever is contemplated in the handling of carload freight.

It is urged by applicant that proposed change will appreciably conserve equipment, effect a saving of 24 hours' time in ultimate delivery of less than carload freight, reduce the handling of this class of freight at way stations, lessen warehouse and clerical expense at Drumm street and yard switching force at Fourth and King streets, provide needed additional team track space at Drumm street, and incidentally contribute to relief of the water front congestion at San Francisco.

Petitioner testified that an average of six cars of less than carload freight move out of Drumm street daily, four of which are transported to Fourth and King street station where the contents are consolidated with other cars and taken to ultimate destination; that the inbound less than carload freight (exclusive of perishables) averages three cars per day. Argument is made that if petition is granted an immediate conservation of equipment will be obtained to the extent of the four cars in use between Drumm and King streets and that a saving of 24 hours would be effected in delivery of outbound freight account elimination of transfer at King street; also that the three inbound cars could be unloaded at Fourth and King streets from 12 to 24 hours earlier than at Drumm street.

It is applicant's contention that the present team track facilities for loading and unloading carload freight are inadequate and that the elimination of less than carload freight as proposed will make available, for team track purposes, space to the extent of eight additional cars which can not be otherwise obtained. Protestants' position is that if the practice of handling nonperishable less than carload freight at this station is abolished, it will necessitate a much longer dray haul between Fourth and King streets and their place of business adjacent to Drumm street and add to the congestion already existing at former point, with consequent delay in obtaining delivery of inbound freight and a much greater team detention than occurs at Drumm street.

It was testified by one of these protestants that in making the trip to and from King street station two hours more time would be consumed than in going to and from Drumm street, which figure, it was stated does not include the detention to dray at King street, due to the great volume of freight handled at that point and congestion attendant thereon.

Statement was made by one of the protestants and unrefuted by applicant that it would not be feasible to use the Drumm street house track for team track purposes, as it is in a depression and could not be improved without tearing down the shed.

An important objection on part of protestants was directed to the earlier hour of departure from their places of business where King street station is used, and it was shown that orders received in the afternoon can not be shipped that day, whereas, in the case of Drumm street, owing to its proximity and less volume of business, these afternoon orders can be shipped out the same day.

Considerable testimony was presented through draymen concerning difficulty experienced in receiving and delivering freight at King street by which it was shown that the sheds were in a highly congested condition during the busy period of 1917, lasting approximately from March

to September, inclusive, and that at the time of this hearing (January, 1918) much time is lost in obtaining freight from the inbound shed. The consensus of opinion of draymen appearing at this proceeding is that handling freight through the King street sheds is exceedingly difficult and that this condition will be strongly manifested with the approaching recurrence of the busy season. They contend that if the less than carload dead freight, now handled at Drumm street is removed to Fourth and King street station, the congestion there will be seriously aggravated and in such event it will be necessary to make a charge against their patrons for detention to drays in addition to the regular haulage rate.

In controversy of protestants' charges, applicant asserts that the congestion of 1917 was due to labor troubles on the water front and strike of its stevedores, therefore an abnormal situation.

It furthermore alleges that the prevailing conditions at the inbound shed are of a transitory nature due to the employment of inexperienced help in consequence of severe inroads made on its warehouse forces by the drafting process of the United States Government and that this trouble will be remedied as these employees become more proficient.

Counsel for defendant also gave out the statement that an appropriation had been made for the purpose of constructing an additional shed at King street, 50 feet wide by 825 feet in length.

The principal reasons advanced by applicant in support of its request are conservation of equipment, more expeditious delivery of less than carload freight, reduction in less than carload freight handled at way stations, saving in station expense, and acquisition of additional team track space at Drumm street.

It has already been shown that the saving in equipment will amount to the four cars in transfer service between Drumm and King streets and that the feasibility of converting the house track at Drumm street into a team track is seriously questioned.

Opposed to the benefit to be obtained by proposed change should be balanced the inconvenience to the shipping public now availing itself of the Drumm street facilities.

After taking into careful consideration both the advantages and inconveniences that will result in consequence of such change, I am of the opinion that until such time as a marked amelioration of the troublesome conditions at King street is shown the best interests of the public would not be served by permitting this change to become effective and accordingly recommend a dismissal of the application without prejudice to subsequent presentation in the event of improved conditions at the King street station.

The following form of order is submitted:

**ORDER.**

The Southern Pacific Company having applied, under section 63 of the Public Utilities Act, for permission to discontinue handling of less than carload nonperishable freight at its Drumm street station, San Francisco, a public hearing having been held and the commission being fully apprised in the premises, for the reasons stated in the foregoing opinion,

*It is hereby ordered* that said application be and the same is hereby denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of March, 1918.

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DECISION No. 5208.

IN THE MATTER OF THE APPLICATION OF THE CITY OF CORCORAN,  
IN THE COUNTY OF KINGS, STATE OF CALIFORNIA, AND THE  
CORCORAN WATER AND GAS COMPANY FOR AN ORDER AUTHORIZING THE PURCHASE AND SALE OF A PUBLIC UTILITY.

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Application No. 3581.

*Decided March 15, 1918.*

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BY THE COMMISSION.

**ORDER.**

The Corcoran Water and Gas Company having applied to the Railroad Commission for authority to transfer to the city of Corcoran its public utility business and property, the same to be made in accordance with the offer contained in a resolution of the board of directors of said company attached to the application herein and marked Exhibit "A," which resolution provides in part as follows:

*"Resolved*, That the Corcoran Water and Gas Company, a corporation, will agree to sell to the city of Corcoran its entire plant consisting of mains, wells, pumps, meters, tank and all other appurtenances and appliances utilized in conducting the company's business, together with lots 10 and 14 of block 24½ and a plot of ground 70 by 128 feet in the west side of the unplatted part of block 24½, also a plot of ground 70 by 159 feet in the southeast corner of said unplatted part of block 24½ in said city of Corcoran (subject to the reservations and restrictions of record affecting said lots), for the price and sum of seven thousand five hundred dollars (\$7,500.00) to be paid to the said Corcoran Water and Gas Company. The said city of Corcoran to assume payment of the outstanding bonds of said Corcoran Water and Gas Company of issue

of April 1, 1917, a total par value of \$15,000.00, which said issue consists of 30 bonds of par value of \$500.00 each, numbered one (1) to 30 inclusive, bearing interest at the rate of 6 per cent per annum and maturing \$1,000.00 on April 1, 1919, \$1,000.00, April 1, 1920, \$1,000.00 April 1, 1921, \$1,000.00 April 1, 1922, \$2,000.00 April 1, 1923, \$2,000.00 April 1, 1924, \$2,000.00 April 1, 1925, \$2,500.00 April 1, 1926, \$2,500.00 April 1, 1927; which said bonds are redeemable upon thirty days published notice prior to date of redemption, at par and accrued interest plus a premium of 2½ per cent of the principal. The time for such purchase to extend to a time when an election can be legally held to determine whether the said city shall purchase the said plant and a sufficient reasonable time thereafter to allow for the completion of the deal in the event that the election carries.

“In the event that the water company shall be obliged to make any expenditure for betterment or extensions prior to said transfer, the cost of same shall be added to the price to be paid the water company by the said city of Corcoran for said plant, provided that no such betterments and extensions shall be made unless approved by the city council.”

And the board of trustees of the city of Corcoran having accepted the proposition set forth in the above resolution and having joined in this application, and it appearing to the commission that this is not a case in which a public hearing is necessary, and that the application should be granted,

*It is hereby ordered* that the application herein be and the same hereby is granted; provided, that the authority herein granted shall apply only to such conveyance as is made on or before September 30, 1918; and provided, further, that within thirty (30) days after any conveyance is executed in accordance with this order a certified copy thereof shall be filed with the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifteenth day of March, 1918.

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DECISION No. 5209.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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Application No. 3591.

*Decided March 15, 1918.*

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BY THE COMMISSION.

**ORDER.**

Southern California Edison Company having filed its application asking for a certificate declaring that public convenience and necessity

require the exercise by it of the rights and privileges granted to it by Ordinance No. 30 of the city of El Segundo, approved January 9, 1918, by which ordinance applicant is given the right, for the period of forty years, to erect, lay, construct and maintain poles, cross-arms, conduits, cables, wires and other appliances, over, in, along and across the public highways, streets, alleys and public places of the city of El Segundo, and to use and operate such poles, cross-arms, conduits, cables, wires and other appliances for transmitting and distributing electrical energy to be used for any and all purposes; and it appearing to the commission that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby declared that public convenience and necessity require the exercise of the rights and privileges granted to Southern California Edison Company by Ordinance No. 30 of the city of El Segundo; provided, that this order shall not become effective until applicant shall have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, declaring that neither it, its successors nor assigns, will ever claim before the Railroad Commission or any other public body a value for said franchise for rate-fixing or other purposes in excess of the actual cost thereof, which cost shall be stated in the stipulation, and the Railroad Commission shall have filed a supplemental order herein, declaring that such stipulation satisfactory in form has been filed.

Dated at San Francisco, California, this fifteenth day of March, 1918.

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DECISION No. 5210.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO TRANSFER TO SOUTHERN PACIFIC RAILROAD COMPANY CERTAIN PROPERTY, AND TO BRING THE SAME UNDER THE OPERATION, TERMS AND CONDITIONS OF A CERTAIN LEASE DATED JUNE 26, 1902.

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Application No. 3592.

*Decided March 15, 1918.*

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BY THE COMMISSION.

**ORDER.**

Pacific Electric Railway Company having asked authority of the Railroad Commission to transfer to Southern Pacific Railroad Company, for the sum of \$87.50, and in accordance with the form of deed attached to the application herein and marked Exhibit "A," the property therein described as follows:

"An undivided one-third interest in and to that portion of the right of way of that certain branch railroad from Crafton to Sun-

29-41120

shine Heights, all in the county of San Bernardino, state of California, which portion is particularly described as a seventy (70) foot strip of land in section 20, township 1 south, range 2 west, San Bernardino meridian, being the easterly seventy (70) feet of lots 1 and 8 of block 12 of the Mentone tract, as said tract is designated on that certain map recorded in Book 8, at page 81, records of the aforesaid county, containing 2.10 acres, more or less.

"Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof."

And Southern Pacific Railroad Company having joined in the application, and it appearing to the Railroad Commission that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that the application herein be and the same hereby is granted, provided that the authority to transfer said property shall apply only to such transfer as is made on or before the thirtieth day of April, 1918; and

It is further provided that a certified copy of the deed of conveyance shall be filed with the Railroad Commission within two weeks after the same is executed.

Dated at San Francisco, California, this fifteenth day of March, 1918.

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DECISION No. 5214.

IN THE MATTER OF THE CONSTRUCTION AND OPERATION OF  
ELECTRIC UTILITIES DURING THE EMERGENCY CREATED BY  
WAR.

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Case No. 1176.

*Decided March 18, 1918.*

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On the commission's own initiative, a general investigation is made of electric generating and distributing conditions in California with particular attention to companies operating in the southern portion of the state. The following recommendations were made:

1. That the Edison, Southern Sierras and San Joaquin companies take steps to make reasonable financial arrangements for the development of such additional hydroelectric energy as is necessary to supply increased demands of their consumers, with a view to reducing to a minimum the use of oil in steam generating plants.
2. The construction by Sierras company of a transmission line from Rush Creek to Bishop and the carrying out by the Edison company of a comprehensive plan for the financing of approximately \$15,000,000.00 for the development of further hydroelectric plants sufficient to meet growing demands for power with necessary distributing lines.

3. The San Joaquin company to take immediate steps to provide such additional facilities as are necessary to enable it to provide and maintain an adequate supply of power, particularly for its agricultural and industrial consumers.
4. It is found that with all interconnections and complete cooperation between southern companies it will not be possible for them to meet the growing demands for additional service and that it will be necessary for them to take immediate steps towards further plant development in which work they should be given all encouragement and assistance possible.

*Chas. P. Cutten* and *W. G. Vincent*, for Pacific Gas and Electric Company.

*Warren Gregory* and *H. F. Jackson*, for Sierra and San Francisco Power Company and Coast Valleys Gas and Electric Company.

*Chaffee Hall* and *Guy C. Earl*, for Great Western Power Company and City Electric Company.

*Warren Gregory* and *Samuel Kahn*, for Western States Gas and Electric Company and San Diego Consolidated Gas and Electric Company.

*R. H. Ballard* and *A. N. Kemp*, for Southern California Edison Company.

*E. C. Voorheis*, for Amador Electric Light and Power Company.

*A. G. Wishon*, *A. E. Wishon* and *W. G. Kerckhoff*, for San Joaquin Light and Power Corporation and Midland Counties Public Service Corporation.

*W. F. Detert*, for Northern California Power Company.

*J. R. Dixon*, for Southern Sierras Power Company.

*R. B. Young*, for Grizzly Electric Company.

*C. A. Luckenbach*, for Los Angeles Gas and Electric Corporation.

*H. J. Coffill*, for Tuolumne County Electric Power and Light Company.

*F. W. Mielenz*, for Napa Valley Electric Company.

*W. M. Sheppard*, *H. C. Stoddard* and *J. D. McKee*, for California-Oregon Power Company.

*A. K. Harford* and *J. T. Whittlesey*, for Universal Electric Company.

*Frank Bell*, for Bell Electric Company.

*F. H. Fowler*, for United States Forestry Service.

*W. B. Mathews* and *E. F. Scattergood*, for city of Los Angeles.

**DEVLIN**, *Commissioner*.

#### OPINION.

This proceeding was instituted by the Railroad Commission of the state of California on its own motion, having for its object an investigation of the construction and operation of electric utilities so as to enable it to determine the special needs of these utilities during the war emergency and in order to enable the commission to render prompt assistance to the government, the utilities and the public to the end that



there would be no shortage in service on the part of the utilities or interruption of service to industries.

Hearings in the matter were held on December 10, 1917, and on January 14 and 31, 1918, appearances being made by all the larger electric utilities of the state and by certain federal authorities.

The first hearing, held December 10, 1917, consisted largely of general discussion and in outlining the procedure to be pursued, and resulted in plans being arranged for cooperation between the electric division of the commission and representatives of the electric utilities and federal authorities in order to expedite the investigation.

Thereafter, pursuant to such plans, many informal conferences were held between representatives of the commission's electric division and representatives of the utilities, such informal conferences being carried on under the direction of Mr. F. Emerson Hoar, gas and electrical engineer of the commission and later, after Mr. Hoar had been called into military service as captain in the engineering corps, such direction was under Acting Gas and Electrical Engineer L. S. Ready with the cooperation of several advisory committees of the electric utilities of both the northern and southern portions of the state.

The first matter to be taken up at these conferences was the conservation of oil by electric utilities.

At the subsequent hearings, reports were submitted on the general condition of hydroelectric and steam development and the various means by which oil consumption could be reduced through the complete coordination of the operation of hydroelectric plants and existing transmission systems, and general reports were submitted regarding the growth of business and the prospect of development of plants of the various utilities in the immediate or near future.

Conferences were also held between the electric division of the commission and representatives of the electric utilities and of the federal government having in view a thorough investigation of the entire situation in question. The electric division has carried on such investigation subsequent to the last formal hearing.

On January 31, 1918, the last formal hearing was had, and at the conclusion of such formal hearing it was announced by the presiding commissioner that the commission would consider the situation on the evidence and reports then before it, as developed up to date, and would issue such order or form of recommendations as it believed proper and appropriate from the information already adduced.

The matter was not finally submitted on said last named date, and I would recommend that the case be kept open as a general investigation affording opportunity from time to time to take up other emergency matters pertaining to the operation of electric utilities of the state

and making such orders and recommendations from time to time as conditions demand. It is not unlikely that it will be found advisable to keep this case open in this manner during the war emergency.

From the evidence presented at the hearings and investigation made, as previously mentioned, it appears clear that although considerable economy in the use of oil would result from more complete interconnection and cooperation of hydroelectric plants, yet it is absolutely necessary that the electric utilities take immediate steps to construct additional hydroelectric plants to meet the constantly growing need for power service made by the normal growth to which is added the special needs created by war industries which are rapidly developing throughout the state.

An analysis of the power situation shows that the state is naturally divided into two separate districts at this time with regard to the interconnection of power companies, and such districts will hereafter in this opinion for convenience be designated northern district and southern district.

The northern district comprises that portion of the state served by the Pacific Gas and Electric Company, Great Western Power Company, Sierra and San Francisco Power Company, Northern California Power Company, California-Oregon Power Company and Western States Gas and Electric Company and certain smaller utilities and subsidiary electric companies. This district extends south in the San Joaquin Valley to about Merced.

The southern district which, to a large extent, is a unit by itself, covers southern California and all of the San Joaquin Valley south of Merced. The principal electric transmission facilities in this portion of the state are operated by the Southern California Edison Company, Southern Sierras Power Company and its allied corporations, San Diego Consolidated Gas and Electric Corporation, Los Angeles Gas and Electric Corporation, city of Los Angeles serving territory south and east of the Tehachapi Mountains; San Joaquin Light and Power Corporation and Mount Whitney Power and Electric Company in the San Joaquin Valley; and the Midland Counties Public Service Corporation in San Luis Obispo and Santa Barbara counties.

Owing to this natural division of the utilities into two groups and further to the fact that special problems have presented themselves in connection with the southern district, I have considered it advisable that the commission make its formal recommendations at this time that certain of the companies in the southern district take immediate steps toward the further development of hydroelectric power. In the following discussion, therefore, I will limit the consideration to the power supply and needs in the southern district.

The reports of the southern committee together with information submitted to the commission in connection with this case and annual reports of the companies show that in 1915 there was produced by these utilities approximately 930,000,000 kilowatt hours; in 1916, 1,010,000,000, and in 1917, 1,146,000,000 kilowatt hours. Of this amount, in 1917, 911,000,000 kilowatt hours were produced by hydroelectric plants, 235,000,000 by steam plants, requiring a total oil consumption of 1,056,000 barrels and an oil equivalent of natural gas used of approximately 260,000 barrels additional. The growth of business between 1915 and 1916 was approximately 75,000,000 kilowatt hours and between 1916 and 1917, 140,000,000 kilowatt hours, while the simultaneous peak demand for these combined systems increased 25,000 kilowatts in 1917 over the demand in 1916.

The southern district committee submitted in their report to the commission their estimate of the probable growth in requirements of electric power on the southern systems during the years 1917 to 1921, from which it appears that unless further hydroelectric developments are immediately started and carried on to completion the amount of oil which will be required to supply the power will be increased by 1921 to approximately 2,700,000 barrels as against the consumption in 1917 of 1,310,000 barrels.

The following table sets forth a summary of the estimated requirements for power for the years 1918 to 1921 with the actual for 1916 and 1917 together with the estimates of energy available from hydroelectric plants under normal water conditions with existing operation of systems, what can be expected with complete interconnection of existing facilities without further hydroelectric development, and the combined amount of oil and oil equivalent of gas which will be required in case no further hydroelectric developments are made.

TABLE No. I.

Year	Millions of kilowatt hours				Barrels oil equivalent required	
	Total	Available water		Steam production		
		Present operation	Complete inter-connection	Present operation	Complete inter-connection	
1916 -----	1,010	875	-----	135	135	900,000
1917 -----	1,146	911	-----	235	235	1,310,000
1918 -----	1,270	1,087	1,150	183	120	928,000
1919 -----	1,210	1,110	1,170	300	240	1,520,000
1920 -----	1,565	1,110	1,170	455	395	2,295,000
1921 -----	1,715	1,110	1,170	605	545	3,040,000

By the utilization of the existing hydroelectric plants with the additions made during 1917 to full capacity by cooperative operation and complete utilization of the existing and contemplated interconnections,

the oil consumption for 1918 should, under normal conditions of precipitation, be reduced 700,000 barrels below 1917 operations.

The subnormal rainfall conditions as they existed on the date of the last hearing of this matter indicated a very material increase in oil consumption this year; but a decided improvement in this respect has taken place since January 31, but it is by no means certain that even with such improved water conditions that normality will be attained in this regard this year.

The existing interconnections and those which it appears urgent that utilities make at this time are as follows:

The Southern California Edison Company and Southern Sierras Power Company have had already installed a 6,250 K. V. A. frequency changer at Colton, making possible the transfer of 5,000 kilowatts either from one company or the other and arrangements have been made for the unified operation of the plants of the two companies whereby the greatest utilization of water will result.

The city of Los Angeles and the Southern California Edison Company have interconnected their systems since the early part of 1917 and the Edison company is absorbing all excess or surplus power developed by that city's existing plants. In addition, the city of Los Angeles is supplying the municipal plant of Pasadena.

Construction work is in progress for the interconnection between the Southern California Edison Company and San Diego Consolidated Gas and Electric Corporation whereby the San Diego company will be supplied with the larger portion of the power which it now is required to produce by steam. In addition, Southern California Edison Company has practically completed construction of a transmission line to Santa Barbara, thus making possible the shutting down of that steam plant and the greater utilization of hydroelectric energy produced on the Edison company's system.

At the present time interconnection is being made between the Southern California Edison Company and the San Joaquin Light and Power Corporation near Bakersfield, whereby the San Joaquin company and the Mount Whitney company, through the connection at Strathmore, may be supplied from one of the Edison company's plants or supply power to the Edison system, and thus make use of a greater amount of hydroelectric power on the San Joaquin corporation's and Mount Whitney company's systems and also allow for the operation of the more efficient steam plants of the Southern California Edison Company in place of those of the San Joaquin and Mount Whitney companies.

It has been informally recommended by this commission to Southern Sierras Power Company that it construct a transmission line from Rush Creek power plant, in Mono County, to Bishop, in Inyo County, by

which line existing plant capacity amounting to 4,500 kilowatts will be made available and 15,000,000 kilowatt hours will be utilized by that company which has not been possible of use before.

By the above arrangements, Los Angeles Gas and Electric Company is the only large producer of power in the southern part of the state not interconnected with hydroelectric systems.

With all the interconnections and the complete cooperation of the various utilities in the operation of existing hydroelectric facilities, it will not be possible for the companies to meet the continually growing demand for power without taking immediate steps for further plant development, and it is absolutely essential that these companies be given every encouragement possible and assistance to meet the growing requirements on their systems. To keep the oil consumption down to approximately where it was in 1917, will require an annual increase in hydroelectric facilities in the southern district of at least 20,000 kilowatts of useful capacity and an increase in energy output of 140,000,000 kilowatt hours under normal rainfall conditions.

Considerable evidence was introduced at the hearings in this application as to the question of future developments and special attention was given to the plants which could be most quickly developed and which would give the most relief at the least capital expenditure.

A survey of the proposed power projects reported as available for development shows that the city of Los Angeles controls three which might be readily developed. The city has at present in its aqueduct development two hydroelectric plants known as San Francisquito Plant No. 1 of 29,000 kilowatts peak capacity, and the Los Angeles River plant of 2,500 kilowatts peak capacity capable of delivering, with the expected water development for 1918 which the city's engineers at the time of the hearing believed could be made, approximately 140,000,000 kilowatt hours per year. It appears from the evidence that the city has three additional power developments along the aqueduct within a radius of approximately 40 miles of Los Angeles. The proposed plants are known as San Francisquito Plant No. 2, San Fernando plant and Franklin Canyon plant. By the construction of these three plants to the economical capacity comparable with the water supply to be utilized by the city in the immediate future and by the addition of another unit to the San Francisquito Plant No. 1, the city could develop approximately 36,000 kilowatts of peak capacity during the year in addition to its present plants and make available an additional 115,000,000 kilowatt hours for use in the city of Los Angeles and vicinity.

This development, it is estimated, could be made with an expenditure between \$2,500,000.00 and \$3,000,000.00 and if prompt action was taken the larger part of the development could be constructed within a

12-months' period provided priority orders were obtained for equipment. This power, due to its proximity to the main center of load and the fact that the plants could be operated at a load factor which would be most efficient in the conservation of oil, would make possible a reduction in the use of oil for production of electricity in the southern district of approximately 600,000 barrels of oil per annum, and the production of power in the existing plants during the ensuing years in excess of that produced in 1917 would increase the saving in oil an additional 150,000 barrels per year.

Difficulties, however, have arisen which on the present record of this case apparently make it impossible at this time to count on the development of these plants. The city of Los Angeles has bonds authorized amounting to approximately \$2,000,000.00 which it contends can not be utilized for the development of additional production plants but must be used for the construction of distribution systems. It contends, however, that if a satisfactory agreement could be entered into with the Los Angeles Gas and Electric Corporation whereby that company would lease to the city its entire system, such agreement to contain an option to purchase the same by the city, that the moneys now authorized could be utilized in connection with the construction of additional hydro-electric plants.

The Los Angeles Gas and Electric Corporation declines to consider this plan, which, it contends, constitutes a complete surrender of the possession of its distributing system to what is in fact a business competitor, and also contends that certain provisions of its trust deed make such plan legally impossible.

Considerable time was devoted to this matter at the different hearings, and a special conference was held at Los Angeles by members of the commission, representatives of the electric division of the commission, representatives of the city of Los Angeles, and representatives of civic organizations and officials of the Los Angeles Gas and Electric Corporation, mainly in an endeavor to effect some solution of the existing differences.

Failure attended such efforts, however, and I am convinced that there is little likelihood that the city of Los Angeles and Los Angeles Gas and Electric Corporation will come to any agreement in this respect.

The commission has no authority, if it so desired, to order the city of Los Angeles to develop the plants referred to and deliver such power to the Los Angeles Gas and Electric Corporation, neither has it authority, if it so desired, to compel the Los Angeles Gas and Electric Corporation to accede to the proposition of the city of Los Angeles.

The difficulty seems to be one in which each of the parties to the controversy is fearful that its future activities in the electrical field of the city of Los Angeles will be prejudiced.

It is to be seriously regretted that at this crucial period, when conservation of oil is one of the most important of war needs, that the give and take spirit should not be more in evidence, and that all interests are not subordinated to actual national war necessity.

The three electric utilities which are at present developing power by hydroelectric plants, are the Southern California Edison Company, San Joaquin Light and Power Corporation and the Southern Sierras Power Company.

The Southern Sierras Power Company reported on request of the commission that it has two proposed projects, located in Mono and Inyo counties, one of 10,000 kilowatt capacity on Leevining Creek in Mono County, which is estimated will cost approximately \$1,000,000.00 to construct, and an additional plant on Bishop Creek, Inyo County, of 7,500 kilowatt capacity, which is estimated will cost approximately \$1,300,000.00 to complete.

It appears that the Southern Sierras Power Company and its allied corporations will probably meet their growing demands for the coming year by the additional peak capacity made available to its entire system by the construction of the transmission line from Rush Creek plant to Bishop, which it has now under contemplation and which this commission has informally recommended be constructed, and such construction is now strongly urged.

Sufficient information is not available at this time to pass upon the other project. Should it later appear advisable that it be constructed, the commission will give the matter further consideration.

San Joaquin Light and Power Corporation has added one plant to its system during the past year and has increased the capacity of its Kern Canyon plant and has under way the addition of two other small plants, which, when completed, will increase the annual kilowatt hour output under normal conditions 6,000,000 kilowatt hours.

Other possible projects are contemplated but not definitely decided upon for the immediate future development.

It would appear advisable that San Joaquin corporation should seriously consider adding to its plants in such a way as to meet the requirements on its own system, as considerable expense would be incurred in the transmission of power from the smaller plants to the larger centers of distribution.

The Southern California Edison Company has set forth in the exhibits presented to the commission in connection with this matter and other data requested by the commission which was to be considered in evidence, certain proposed projects. The hydroelectric projects proposed include what is known as Kern River No. 3, Pittman Creek diversion, additional installation in the present Big Creek Plant No. 2 and also

Big Creek Plant No. 3 and the storage and diversion of waters from additional proposed reservoirs into the Big Creek developments.

Kern River Plant No. 3, as reported, will be capable of developing 180,000,000 kilowatt hours per year under normal rainfall conditions, and will have a plant capacity of 30,000 kilowatts. This plant is estimated will cost approximately \$6,500,000.00 to complete. The company has already spent approximately \$1,000,000.00 in preparing for this construction, and has completed a portion of the tunnel work. It is estimated that a part of the plant can be put in operation during 1919, and that the full capacity can be made available by 1920, provided action is taken at the present time for the development of this project.

The Pittman Creek diversion into the Huntington Lake reservoir of the Southern California Edison Company at an expenditure of approximately \$500,000.00 will result in an annual production of 22,000,000 kilowatt hours, and with a further installation of a dam in the Pittman Creek this capacity, at a cost of approximately \$300,000.00 can be increased to 32,000,000 kilowatt hours.

A third development proposed by the Edison company is the installing of an additional unit in Big Creek Plant No. 2 at a cost of approximately \$850,000.00, which will make available an additional peak of 16,000 kilowatts and 21,000,000 kilowatt hours per year.

From further investigation of the general power projects in the vicinity of Big Creek developments made by the commission's engineers, it appears that a reservoir site known as Shaver Lake, at present owned by the Fresno Flume and Lumber Company, if developed can be used in connection with the Big Creek developments of the Southern California Edison Company. From the engineer's reports it appears that approximately 50,000,000 kilowatt hours per year can be made available commencing with the middle of the coming summer, providing satisfactory negotiations could be carried out between the lumber company and the Southern California Edison Company for the purchase of the necessary reservoir site and the construction of the necessary conduits.

A fourth development considered by the Southern California Edison Company contemplates the construction of a hydroelectric plant known as Big Creek No. 3, below plant No. 2, which is estimated will cost \$5,000,000.00 for the plant and \$200,000.00 additional for transmission facilities, and will make available approximately 34,000 kilowatts and will produce approximately 150,000,000 kilowatt hours per year.

Of the above projects it is estimated by Southern California Edison Company that Kern River Plant No. 3 can be put in partial operation in the fall of 1919, Pittman Creek diversion can be constructed for operation in the year 1919, and the third unit to be installed in



Big Creek Plant No. 2 will be installed in two years, that to construct Big Creek No. 3 will require three and a half years for completion.

In order to meet the growing demands for power upon the Edison company's system and the demands on other systems purchasing power from the Southern California Edison Company, it appears that Southern California Edison Company should immediately take steps to increase its hydroelectric capacity and to make available for use sufficient kilowatt hours to reduce the oil consumption in its steam plants to the most economical point considering the question of conservation of fuel oil and cost of operation. To do this will require the financing of approximately \$11,000,000.00 for hydroelectric plants and to serve consumers an additional amount of approximately \$4,000,000.00 for distribution system.

It is clearly advisable for Southern California Edison Company to consider the question of developing at the present time the least expensive plants, in order that it may not overburden its consumers with additional fixed charges resulting from the present high interest rate and the abnormal prices for material and labor.

I therefore recommend that the commission make the following recommendations:

#### RECOMMENDATIONS.

1. Southern California Edison Company, Southern Sierras Power Company and San Joaquin Light and Power Corporation proceed, either severally or jointly, through any channels which are available, with an effort to make reasonable financial arrangements, subject to the approval of this commission, for the development of such additional hydroelectric power and the distribution of same to their consumers as appears necessary to supply the increased demand upon their systems and to insure a sufficient supply of power for all necessary needs and to reduce the consumption of oil to an economical minimum.

2. Southern Sierras Power Company construct its Rush Creek-Bishop line.

3. Southern California Edison Company take immediate steps for the carrying out of a comprehensive plan, subject to the approval of this commission, for the financing of approximately \$15,000,000.00 for the development of further hydroelectric plants sufficient to meet growing requirements of power and the necessary additions to its distribution system.

4. Southern California Edison Company in developing such additional power during the present emergency, proceed with the most economical developments commensurate with the urgency of prompt action.

5. San Joaquin Light and Power Corporation take the necessary steps to insure the construction of additional plants, or the increase of facilities, or by the agreement of purchase, to maintain an adequate supply of power during the present emergency for the agricultural and industrial purposes, and other necessary requirements for power service.

The foregoing opinion and recommendations are hereby approved and ordered filed as the opinion and recommendations of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eighteenth day of March, 1918.

Decision No. 5215.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF FACE VALUE OF SEVEN HUNDRED SIXTY-SEVEN THOUSAND DOLLARS.

Application No. 3557.

*Decided March 18, 1918.*

It is considered inadvisable to authorize the expenditure of a portion of the proceeds of bond sales to cover the expense of making preliminary surveys and collecting data as to the advisability of constructing new generating plants. Such expenditures should be carried in a suspense account until it is definitely determined whether or not to proceed with such work.

Applicant authorized to issue \$767,000.00 face value of its 6 per cent first and refunding bonds to be sold at not less than 90, the proceeds thereof to be placed in a special fund and expended only for such purposes as are hereafter designated by the commission in supplemental orders.

*Short & Sutherland*, by *W. A. Sutherland*, for Applicant.

*THELEN*, Commissioner.

**OPINION.**

San Joaquin Light and Power Corporation in its amended petition herein asks authority to issue \$767,000.00 of its Series "C" 6 per cent first and refunding bonds, payable August 1, 1950. Petitioner desires authority to issue the bonds at not less than 90 per cent of their face value and to use the proceeds for the acquisition of property, the construction, completion, extension and improvement of its facilities and the improvement of its service. The proceeds are to be used when and as liability to pay the cost of such improvements and betterments accrues or as obligations to pay money borrowed for such purposes mature.

At the hearing held herein in San Francisco on March 11, 1918, petitioner was requested to file certain additional information. This infor-

mation has been filed and under the stipulation made at the hearing has been given exhibit numbers as follows:

Exhibit No. 4 of Petitioner—Copy of amended application on file with State Water Commission relative to new installation on San Joaquin River and data relative to the Kings River project.

Exhibit No. 5 of Petitioner—Map showing location of proposed Kern River plant.

Exhibit No. 6 of Petitioner—Estimated revenue from contemplated extensions listed in Petitioner's Exhibit No. 2.

In its annual report for the year ending December 31, 1917, petitioner reports its assets and liabilities as of December 31, 1917, as follows:

<i>Assets.</i>	
Fixed capital installed prior to January 1, 1913—electric.....	\$21,882,097 16
Fixed capital installed since December 31, 1912—electric.....	3,314,105 38
Fixed capital installed prior to January 1, 1913—gas.....	602,901 20
Fixed capital installed since December 31, 1912—gas.....	78,356 99
Fixed capital installed prior to January 1, 1913—water.....	98,938 45
Fixed capital installed since December 31, 1912—water.....	13,504 39
Total fixed capital.....	\$25,989,903 57
Cash.....	229,100 37
Notes receivable.....	229,900 65
Accounts receivable.....	1,018,453 34
Accounts with system corporations.....	\$326,546 63
Due from consumers and agents.....	357,139 58
Miscellaneous accounts receivable.....	334,767 13
Investments.....	339,162 80
Securities of other corporations.....	\$306,121 94
Miscellaneous investments.....	33,040 86
Materials and supplies.....	490,832 23
Sinking funds.....	196,716 48
Treasury securities.....	710,276 49
Prepaid expenses.....	4,890 74
Prepaid taxes.....	\$1,736 92
Prepaid insurance.....	1,842 42
Other prepayments.....	1,311 40
Unamortized discount on securities and expenses.....	1,655,639 36
Stocks.....	\$1,250,000 00
Bonds.....	405,639 36
Other suspense.....	287,855 21
Construction work in progress.....	1,897,585 71
Total assets.....	\$33,650,316 95

<i>Liabilities.</i>	
Capital stock.....	\$17,500,000 00
Funded debt.....	11,699,000 00
Notes payable.....	62,653 20
Accounts payable.....	352,319 50
Audited vouchers and wages unpaid.....	\$295,171 92
Consumers' deposits.....	28,727 95
Miscellaneous accounts payable.....	28,419 63
Interest accrued.....	239,434 95
Taxes accrued.....	9,284 55

Service billed in advance .....	\$10,611 02
Reserve for accrued depreciation .....	673,937 07
Casualty and insurance reserves .....	27,881 45
Reserves invested in sinking funds .....	788,216 48
Other reserves from income or surplus .....	80,411 22
Capital surplus .....	321,259 98
Corporate surplus unappropriated .....	1,315,307 53
<b>Total liabilities .....</b>	<b>\$33,050,316 95</b>

Petitioner in its petition herein reports its funded debt issued and held by the public as follows:

Description of funded debt	Debt held by public
San Jose Light and Pr. Corp., First and Ref. Series A, 6% bonds....	\$1,422,000 00
San Jose Light and Pr. Corp., First and Ref. Series B, 5% bonds....	799,000 00
San Jose Light and Pr. Corp., First and Ref. Series B, 6% bonds....	2,125,000 00
San Jose Light and Pr. Corp., First and Ref. Series C, 6% bonds....	3,072,000 00
<b>Total First and Refunding bonds.....</b>	<b>\$7,418,000 00</b>
San Jose Light and Pr. Corp., 10-year 6% debentures.....	750,000 00
San Joaquin Power Co., First Mortgage 5% bonds.....	25,000 00
San Joaquin Light and Power Co., First Mortgage 5% bonds.....	2,595,000 00
Power, Transit and Light Co., First Mortgage 5% bonds.....	86,000 00
Bakersfield and Kern Electric Railway Co., First Mortgage 5's.....	43,000 00
<b>Total .....</b>	<b>\$10,917,000 00</b>

The \$11,699,000.00 of funded debt reported by applicant in its balance sheet includes all bonds held by the trustees under the various mortgages for sinking fund or other purposes, whereas the \$10,917,000.00 represents the funded debt actually outstanding and held by the public.

In its annual reports for the years 1915, 1916 and 1917 filed with the Railroad Commission, petitioner reports its revenues and expenses as follows:

Item	1915	1916	1917
Electric operations—			
Operating revenues .....	\$1,577,712 26	\$1,560,951 07	\$1,776,261 62
Operating expenses .....	618,947 66	581,602 47	724,200 91
Net operating revenue electric .....	\$958,764 60	\$979,348 60	\$1,052,060 71
Gas operations —			
Operating revenues .....	\$139,834 40	\$150,821 91	\$181,353 78
Operating expenses .....	104,293 10	99,928 00	121,961 35
Net operating revenues— gas .....	\$35,541 30	\$50,893 91	\$59,392 43
Water operations—			
Operating revenue .....	\$15,708 70	\$15,635 60	\$17,150 61
Operating expenses .....	7,593 44	5,787 86	6,156 81
Net operating revenues water .....	\$8,115 26	\$9,847 74	\$10,993 80
Grand total operating revenues .....	\$1,773,255 36	\$1,727,408 58	\$1,974,766 01
Grand total operating expenses .....	730,834 20	687,318 33	852,319 07
Net operating revenues .....	\$1,002,421 16	\$1,040,090 25	\$1,122,446 94
Nonoperating revenues —			
Rents from buildings, land and apparatus—water .....	*\$14 14		
Miscellaneous interest revenues .....	6,560 60	\$10,784 38	\$35,141 25
Dividend revenues .....	1,058 02	976 62	732 48
Sinking and reserve fund accretions .....	2,622 79	6,075 57	8,262 94
Miscellaneous nonoperating revenues .....	*1,489 81	3,573 66	12,301 62
Total nonoperating revenues .....	\$8,737 43	\$21,410 23	\$56,438 29
Gross corporate income .....	\$1,011,158 59	\$1,061,500 48	\$1,178,885 23
Deductions —			
Uncollectible bills .....	\$4,800 00	\$4,800 00	\$4,729 07
Miscellaneous nonoperating expenses .....	199 54	9 68	
Nonoperating taxes .....	357 40	525 84	626 53
Interest accrued on funded debt .....	402,628 63	461,888 38	512,663 77
Other interest deductions .....	81,006 95	12,263 15	17,748 32
Rent for instruments and equipment electric .....	80 50		
Amortization of debt discount and expense .....	28,972 92	11,464 89	12,825 85
Total deductions .....	\$518,045 91	\$490,951 94	\$548,593 54
Profit for year carried to surplus account .....	\$493,112 65	\$570,548 54	\$630,291 69
Credit .....			

The 1915 operating expenses include \$103,545.09 set up for depreciation, those for 1916, \$39,681.44 and those for 1917 \$58,725.19. In 1915 operating expenses included taxes amounting to \$91,209.80, in 1916 \$96,913.46; and in 1917 \$109,977.74.

The additions to and deductions from petitioner's corporate surplus account are reported as follows:

	1915	1916	1917
Surplus at beginning of year.....	\$386,253 85	\$727,578 99	\$1,137,236 14
Additions to surplus—			
Profit for year from income account....	\$493,112 65	\$570,548 54	\$630,291 69
Miscellaneous additions to surplus.....	8,978 12	1,844 36	31,567 98
<b>Total surplus .....</b>	<b>\$888,344 62</b>	<b>\$1,299,971 89</b>	<b>\$1,802,095 81</b>
Deductions from surplus—			
Dividends on outstanding stock.....			\$292,560 00
Sinking fund appropriations.....	\$145,216 45	\$148,566 81	150,771 69
Expenses unprovided for elsewhere.....	494 43	1,681 96	6,181 47
Other deductions from surplus.....	15,054 75	12,486 98	37,335 12
<b>Total deductions .....</b>	<b>\$160,765 63</b>	<b>\$162,735 75</b>	<b>\$186,788 28</b>
<b>Surplus at end of year.....</b>	<b>\$727,578 99</b>	<b>\$1,137,236 14</b>	<b>\$1,315,307 53</b>

The trustee under the first and refunding mortgage of San Joaquin Light and Power Corporation may certify and deliver bonds subject to the restrictions set forth in that instrument —

“\* \* \* for use in the discretion of the board of directors of the corporation, in or to aid in acquiring, and in providing for eighty-five per centum (85%) of the cost of making additions to and extensions, improvements and betterments of the property of the corporation or any of the subsidiary companies of the corporation (as defined in section 5 of article thirteen of the mortgage) whereof all of the shares of capital stock theretofore outstanding, or all of the shares of such stock except such as are owned by directors (which shall not exceed the number necessary to qualify such directors), shall be owned by the corporation and shall have been pledged hereunder and shall be represented by certificates actually deposited with the trustee or with the trustee under some one of the mortgages specifically mentioned in the granting clauses hereof, and of the acquiring, constructing or equipping of additional property by the corporation or by any subsidiary company such as is last above described, and to reimburse the corporation for eighty-five per centum (85%) of any moneys at any time expended or advanced by it subsequent to August 1, 1910, for any of the aforesaid purposes.”

The first and refunding mortgage further provides that the trustee shall not certify or deliver any bonds until the corporation has furnished it with a statement showing—

“\* \* \* that the net income of the corporation for the period of twelve months ending two months before the first day of the then current month has been at least twice the sum of the interest upon (1) all bonds secured by this indenture which shall then be

outstanding, (2) all bonds to be secured hereby which shall not have been authenticated and delivered but the authentication and delivery whereof shall have been requested, (3) all bonds to be secured hereby in contemplation of the authentication and delivery whereof such certificate shall be required or furnished, and (4) all of the underlying bonds, except such underlying bonds as shall have been delivered to and shall be held by the trustee hereunder."

Section 6 of article two of the first and refunding mortgage defines the term "net income" as being the amount remaining after deducting from the gross income of the corporation received from all sources whatsoever, all operating expenses, including charges on account of taxes, insurance, rentals, and proper and customary charges for current repairs and maintenance.

Instead of issuing bonds to provide funds for paying for 85 per cent of the cost of additions and betterments, petitioner has adopted a policy whereunder it will issue bonds to provide for but 75 per cent of the cost of additions and betterments. The testimony in this proceeding shows that at the close of January, 1918, so far as the provisions of its first and refunding mortgage are concerned petitioner would have been able to issue \$767,000.00 of bonds.

In its Exhibit No. 2, petitioner estimates its capital expenditures during 1918 at \$1,554,556.61. These expenditures it segregates in its exhibit as follows:

*Electric department—production:*

Balance to complete estimates issued and open—

Number		
2287	Betteravia steam plant boilers.....	\$21,637 26
2533	New cooling tower Bakersfield.....	5,596 06
2989	Tunnel lining and pressure pipe, Crane Valley Dam.....	18,293 39
69	Concrete lining for No. 1 P. H. ditch.....	15,853 97
86	Gas collection lines for gas for the Betteravia steam plant	9,846 00
156	Steel substructures for flumes on No. 1 ditch (addition to capital portion only).....	6,267 00
164	New 1,000 K. V. A. unit, Crane Valley Dam.....	44,279 00
181	New well Bakersfield steam plant.....	2,104 00
183	Plant No. 1a (No. 1 Reservoir).....	57,212 00
193-194-195	Surveys and preliminary engineering for new developments on San Joaquin and Kings rivers.....	15,000 00
312	Current limiting reactance coils, Bakersfield steam plant..	4,065 00
	New natural gas line to bring gas to Bakersfield steam plant .....	135,000 00
	Miscellaneous—estimated .....	10,000 00
		<hr/>
		\$345,153 68

*Transmission lines:*

Balance to complete estimates open December 31, 1917..... \$42,848 40

*Substations:*

Balance to complete estimates open December 31,	
1917 .....	\$102,761 43
Less Chowchilla substation for which new estimate	
was issued .....	25,307 07
	<hr/> \$77,454 06
Number	
2992—New substation, Merced .....	27,950 00
3000—700 K. V. A. substation, Chowchilla .....	8,725 00
21—New substation, Tulare Lake .....	25,139 00
65—Operator's cottage, barn, etc., Alpaugh .....	2,910 00
22—1,500 K. W. capacity copper mine .....	15,812 00
	<hr/> \$157,981 06

*Distribution:*

Service improvements (same as 1917) .....	\$41,502 95
Extensions for revenue (same as 1917) .....	796,692 41
Balance of purchase of consumers' transformers .....	66,008 99
	<hr/> \$904,204 35

*Gas, water and railway departments:*

(Assume same expenditures as 1917) .....	\$28,285 44
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*General capital and miscellaneous unclassified expenditures:*

(Assume same expenditures as 1917) .....	\$76,083 98
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In general, petitioner's 1918 electric construction program calls for the installation of a 1,000-K. V. A. hydroelectric plant at its Crane Valley dam, a 425-K. V. A. hydroelectric plant at its No. 1 reservoir, the construction of a 6-inch natural gas transmission line to connect its Bakersfield steam generating plant with the Midway gas company's natural gas transmission line extending from the so-called Midway oil fields to Los Angeles, preliminary work in connection with new proposed hydroelectric plants on the San Joaquin River and the north fork of the Kings River, the completion of transmission lines, substations and the construction of distribution lines to take care of new business.

The installation of the 1,000-K. V. A. plant at the Crane Valley dam is estimated to cost \$44,279.00 and the lining of the tunnel and pressure pipe, \$18,293.39, making a total cost for this project of \$62,572.39. The installation of the 425-K. V. A. plant at the No. 1 reservoir is estimated to cost \$57,212.00. Petitioner thus estimates that at a total cost of \$119,784.39 it will be able to increase its hydroelectric generating capacity in the amount of 1,425 K. V. A. The testimony shows that the equipment for these generating plants was ordered last January, that delivery is promised by July first and that these installations are urgently necessary. In addition, petitioner is at present installing new boilers at its Betteravia steam plant.

Recently petitioner has connected its lines near Strathmore with those of Mount Whitney Power and Electric Company, controlled by Southern California Edison Company. Mr. G. R. Kenny, statistician



for petitioner, testified that as yet he was unable to advise the commission as to just what results this interconnection would have upon the power resources of San Joaquin Light and Power Corporation. He was of the opinion that the company might be able to obtain some power from the Mount Whitney Company.

Mr. Kenny is of the opinion that with the installation of the two hydroelectric plants and a normal rainfall the company can take care of the needs of its present consumers as well as all those who may make application for power during the current year.

The company's fuel oil contract expired on December 31, 1917. Under this contract the company purchased a certain amount of fuel oil used in its Bakersfield electric steam generating plant at about 51 cents per barrel delivered. At the present time, the company is paying \$1.45 per barrel. Because of the increase in the cost of fuel oil, the possibility of having to operate its Bakersfield steam plant during a longer period of the current year than usual and for the purpose of conserving fuel oil, petitioner intends to build a 6-inch natural gas transmission line from Bakersfield to a connection with the transmission line of the Midway gas company, extending from the Midway oil fields to Los Angeles. For this purpose, petitioner has ordered 127,000 feet of pipe. It intends to substitute natural gas for oil as fuel in its Bakersfield steam generating plant. The cost of the pipe line is estimated at \$135,000.00. Petitioner estimates that this investment will save from 200,000 to 250,000 barrels of fuel oil per annum. The record herein does not contain testimony from which we can at this time form a conclusion with reference to the possibility of securing this quantity of gas or the amount of the possible saving of fuel oil. Petitioner has made arrangements to purchase natural gas from the Midway gas company for 14 cents per thousand cubic feet. We are unable at this time to pass on the advisability of this expenditure.

Petitioner is engaged in making the necessary surveys and collecting data to determine the advisability of undertaking the construction of a 15,000-kilowatt hydroelectric plant on the main San Joaquin River, and a 75,000- to 100,000-kilowatt hydroelectric plant on the north fork of the Kings River. Neither of these projects has reached the stage of actual construction. While I appreciate the necessity of expending considerable sums for these purposes, I believe that until such time as it is definitely determined to go ahead with the projects the amount expended thereon should be carried in a suspense account. Until such time as the commission is assured that the projects will be carried through to completion, I do not believe that the proceeds from the sale of bonds should be expended thereon. I am satisfied that peti-

tioner will encounter no difficulty in carrying forward this preliminary work, even though it is not authorized to use any part of the proceeds of the bonds herein authorized to pay for the same.

To complete transmission lines in process of construction on December 31, 1917, petitioner would expend \$42,848.40. This includes the so-called Sayers Corners line, the Henrietta-Corcoran line and the Alpaugh line, which is a line from Corcoran to the new substation being built at Alpaugh. The \$42,848.40 includes the cost of the necessary switches and equipment.

For completing substations in process of construction, petitioner would expend \$77,454.06. In addition, petitioner contemplates the construction of a new substation at Merced costing \$27,950.00, a new substation at Chowchilla, costing \$8,725.00, a new substation at Tulare Lake costing \$25,130.00 and a new substation at Copper Mine costing \$15,812.00.

Mr. Kenny is of the opinion that all of these substations with the possible exception of that at Merced should be built during 1918.

Assuming petitioner to be able to handle the 1918 business, Mr. Kenny estimates that the increase in the number of consumers and the new business will be equal to the increase of consumers and new business in 1917. The difficulty of obtaining material, such as transformers and wire, may to some extent retard the increase in petitioner's business.

Assuming conditions to be the same as in 1917, petitioner estimates that it should expend for the extension of its distribution system \$796,692.41 and for the improvement of its service \$41,502.95. By far the larger percentage of applications for power will come from people who desire to use electrical energy for irrigation and oil well pumping. Each of these purposes is essential in the service of the nation's war needs. Petitioner is not encouraging at this time the substitution of electric power for gas engine or steam pumping. The larger number of applications for power for irrigation purposes are to irrigate new lands.

Petitioner estimates that if it will be able to carry forward its contemplated construction program, its gross revenues during 1918 will increase from \$250,000.00 to \$350,000.00 over those of 1917.

It is the intention of petitioner to use the proceeds of the bonds which it now desires to issue to pay in part for its construction expenditures to be incurred during 1918. The testimony shows that it has sufficient funds available from the sale of its debentures to pay for its construction work to approximately April first. It appears from the testimony that the proceeds from the sale of bonds will be applied entirely to finance construction expenditures hereafter to be incurred. I am of the opinion that petitioner should be permitted to use the

proceeds from the sale of its bonds to pay in part for construction expenditures set forth in its Exhibit No. 2 on the condition that before any part of the proceeds from the sale of the bonds are actually applied against said expenditures, petitioner will file with the commission a detailed statement of its expenditures which it desires to pay with the proceeds of bonds and shall have secured from the Railroad Commission a supplemental order or orders authorizing the expenditure of the proceeds of the bonds for the purposes to be specified in such supplemental order or orders.

I herewith submit the following form of order:

#### ORDER.

San Joaquin Light and Power Corporation having applied to the Railroad Commission for authority to issue \$767,000.00 of its series "C" 6 per cent first and refunding bonds, payable August 1, 1950, a hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that San Joaquin Light and Power Corporation be and it is hereby granted authority to issue \$767,000.00 face value of its series "C" 6 per cent first and refunding bonds, payable August 1, 1950, upon the following conditions:

(1) The bonds herein authorized to be issued shall be sold by petitioner for cash at not less than 90 per cent of their face value.

(2) The proceeds obtained from the sale of the bonds shall be deposited in a special fund and hereafter expended only for such purposes as the Railroad Commission may by a supplemental order or orders herein designate.

(3) San Joaquin Light and Power Corporation shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted shall not become effective until petitioner has paid the fee prescribed by the Public Utilities Act.

(5) The authority herein granted shall apply only to such bonds as may be issued on or before December 15, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eighteenth day of March, 1918.

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DECISION No. 5216.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY FOR AN ORDER APPROVING AMENDMENTS AND MODIFICATIONS TO DEED OF TRUST.

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Application No. 3608.

*Decided March 19, 1918.*

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BY THE COMMISSION.

**ORDER.**

The Railroad Commission having authorized by Decision No. 4034, dated January 20, 1917, East Bay Water Company to execute a mortgage or deed of trust securing the payment of \$15,000,000.00 face value of 5½ per cent thirty-year gold bonds, and East Bay Water Company having filed with the Railroad Commission an application for authority to amend its mortgage or deed of trust as set forth in the petition herein, and it appearing that this is a matter on which a hearing is not necessary and that applicant's request is reasonable and should be granted; now, therefore.

*It is hereby ordered* that East Bay Water Company be and it is hereby granted authority to amend its mortgage or deed of trust executed pursuant to the authority granted by Decision No. 4034, dated January 20, 1917, the amendments to said mortgage or deed of trust to be substantially in the same form as those set forth in the petition herein.

The approval herein given of said amendments is for the purpose of this proceeding only and is an approval only in so far as the Railroad Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said amendments as to such other legal requirements to which said amendments may be subject.

Dated at San Francisco, California, this nineteenth day of March, 1918.

## DECISION No. 5218.

## IN THE MATTER OF THE SERVICE STANDARDS OF GAS UTILITIES.

Case No. 1064.

*Decided March 22, 1918.*

A proceeding initiated with a view to establishing a schedule of rules and regulations governing the service standards of gas utilities operating under the jurisdiction of the Railroad Commission, is held in abeyance pending the duration of the war or until further order of the commission account the present abnormal increases in prices of materials and supplies and the increases it would necessitate in capital and operating expenses, particularly of the smaller companies, provided that such order does not prohibit the commission from issuing orders in service matters in formal proceedings affecting gas utilities.

*C. P. Cullen*, for Pacific Gas and Electric Company.

*Chickering & Gregory*, by *Allen L. Chickering*, for Western States Gas and Electric Company, Santa Maria Gas and Power Company, Economic Gas Company, and San Diego Consolidated Gas and Electric Company.

*H. F. Jackson* for Coast Valleys Gas and Electric Company.

*C. J. Goodell*, for Rochester Oil Company.

*R. H. Sterling*, for Santa Barbara Gas and Electric Company and Ventura Light and Power Company.

*F. S. Wade*, for Southern Counties Gas Company.

*W. E. Houghton*, for Los Angeles Gas and Electric Company.

*J. N. Jenson*, for Sacramento Gas Company.

*S. W. Coleman*, for Coast Counties Gas and Electric Company and Contra Costa Gas Company.

*R. E. Matteson*, for Western Fuel, Gas and Power Company.

*G. W. Satchell*, for Coalinga Gas and Power Company.

*B. E. Lalang*, for Jackson Gas and Light Company.

*G. R. Kenny*, for San Joaquin Light and Power Corporation and Midland Counties Public Service Corporation.

*Z. T. Bell*, for Citrus Belt Gas Company.

*THELEN, Commissioner.*

**OPINION.**

This proceeding was instituted by the Railroad Commission on its own motion for the purpose of investigating the subject of service standards for gas utilities and of establishing, after full investigation and hearing, such service standards for gas utilities as might appear to be just and reasonable.

The proceeding was instituted on April 7, 1917, and all gas utilities in California were made parties thereto.

Prior to the hearing hereinafter referred to, the gas and electric division of the Railroad Commission prepared 42 tentative rules of service standards which were printed and mailed to all gas utilities for their consideration and suggestions in connection with this proceeding. These tentative rules cover the entire field of gas service standards, including, among other subjects, the maintenance of adequate maps and other records; the acquisition and use of testing equipment and facilities; meter readings and bill forms; extension of mains and installation of service connections; installation and maintenance of meters and regulators; the establishment and maintenance of heating value standards and of standards of pressure; the acquisition and use of appropriate calorimeter and pressure testing equipment; the testing of meters; and the adjustment of bills in cases of inaccurate meters.

Public hearings herein were held in San Francisco on August 20 and 21, 1917.

The testimony shows that the establishment and observance of the rules as a whole would in normal times be desirable from the point of view of the gas utilities as well as their consumers.

While a number of the larger gas utilities are already complying substantially with most of the tentative rules, the testimony shows that a compliance therewith by all the gas utilities would result for most of them, including practically all the smaller companies, in increased capital and operating expenses.

If times and prices were normal, I would unhesitatingly recommend the adoption of the tentative standards prepared by the Gas and Electric Division, with such modifications as the testimony shows to be desirable. At the present time, however, when the nation's needs require the conservation of man power, material and funds and strict economy in both capital and operating expenditures, I believe that the promulgation and enforcement of these rules would not be in harmony with the nation's war requirements.

I, therefore, recommend that an order requiring the gas utilities to comply with the proposed service standards be not issued during the war or until the further order of the Railroad Commission. At the same time, however, I desire to suggest to the gas utilities of the state that it would be desirable for them to look to the proposed rules as the goal toward which they should work in service matters, even during the war, in all respects not involving major expenditures.

The order herein will, of course, not preclude the commission from making such orders in service matters or otherwise in formal proceedings affecting gas utilities as may be found desirable and consistent with war conditions, or from taking up with the utilities informally in specific instances such service matters as may require adjustment.

I submit the following form of order:

**ORDER.**

Public hearings having been held in the above entitled proceeding and the Railroad Commission finding that the promulgation and enforcement of the proposed service standards of gas utilities would not at this time be consistent with war conditions and war needs,

*It is hereby ordered* that further proceedings herein be suspended during the war or until the further order of the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-second day of March, 1918.

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DECISION No. 5219.

IN THE MATTER OF THE CONSTRUCTION AND OPERATION OF GAS UTILITIES DURING THE EMERGENCY CREATED BY THE WAR.

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Case No. 1175.

*Decided March 22, 1918.*

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The commission's investigation into the operation of gas utilities during the emergency created by the war is held in abeyance pending the result of investigations being conducted by the United States government as to the advisability of constructing plants for the recovery of toluol from artificial gas, at the conclusion of which investigations, should the government decide to construct such plants, the commission pledges itself to do everything possible in the furtherance of such work.

*C. P. Cullen*, for Pacific Gas and Electric Company.

*Chickering & Gregory*, for Sierra and San Francisco Power Company and Santa Maria Gas and Power Company.

*Samuel Kahn*, for Western States Gas and Electric Company and San Diego Consolidated Gas and Electric Company.

*A. N. Kemp*, for Santa Barbara Gas and Electric Company.

*A. B. Macbeth*, for Southern California Gas Company, Midway Gas Company and Producers' Gas and Fuel Company.

*C. A. Luckenbach*, for Los Angeles Gas and Electric Company.

*F. S. Wade*, for Southern Counties Gas Company.

*Edward Whaley*, for Northern California Power Company Consolidated.

*G. W. Satchell*, for Coalinga Gas and Power Company.

*H. C. Keyes*, for Sacramento Gas Company.

*Emory Wishon*, for San Joaquin Light and Power Corporation.

THELEN, *Commissioner*.

**OPINION.**

This proceeding was instituted on the Railroad Commission's own motion for the purpose of informing itself with reference to the problems of California gas utilities, both as to construction and operation, during the emergency created by the war, and of thereafter making such orders or recommendations as might seem necessary or desirable in the solution of such problems.

A public hearing was held in San Francisco on December 8, 1917. A decision has been deferred pending a decision by the federal government as to whether it desires to enter into contracts with any California gas companies looking to the extraction of toluol from artificial gas manufactured in this state.

The rate problems of California gas utilities, caused largely by increased costs of fuel, materials and labor, are being presented to the commission in separate formal proceedings filed by individual companies.

The need of gas utilities for new capital is relatively small as compared with the needs of electric utilities and need not be considered herein.

The representatives of the gas utilities directed the attention of the commission at the hearing herein to only two problems:

1. Extensions.
2. Extraction of toluol.

As to gas extensions, the attention of the commission has not been directed to any situation requiring an order herein. Unless some showing is made as to the necessity for affirmative relief, we may assume that our gas utilities will continue the same policies as to extensions as heretofore.

This leaves for consideration only the toluol situation. This was the matter which the commission primarily had in mind when this proceeding was instituted.

It is matter of common knowledge that the government needs very large quantities of toluol for the manufacture of the high explosive known as trinitrotoluol. The three principal sources from which toluol is being secured in the United States are:

1. By-product of coke ovens.
2. Synthetic gasoline manufacturing plants.
3. Artificial gas plants.

The largest amount of toluol is at present secured from by-product coke ovens. At this time, however, the light oil recovery of by-product



coke ovens does not exceed 60,000,000 gallons per year, from which between 9,000,000 and 10,000,000 gallons of toluol are recovered.

The various oil cracking processes now in use, although as yet largely experimental, may be utilized as an important source for the production of toluol. The production of cracked or synthetic gasoline in the United States has increased from 1,000,000 barrels in 1913 to approximately 7,000,000 barrels in 1917. Assuming that the output capacity of synthetic gasoline plants in the United States during 1918 will be 9,000,000 barrels of cracked gasoline, the gas and electric division of the Railroad Commission reports that it would be reasonable to expect that in case of necessity from 12,000,000 to 15,000,000 gallons of toluol could be produced in these plants in 1918.

As the ordnance department of the War Department made public announcement at a conference held in Washington on July 31 and August 1 and 2, 1917, that the additional requirements of the government for toluol would be 23,500,000 gallons during the ensuing year, it is evident that serious consideration must be given to every available source from which toluol can be manufactured.

Under these conditions, the production of toluol from artificial gas has been the subject of widespread attention and of considerable discussion in technical periodicals. Reference is hereby made to the following reports and published articles among others:

Report—Subcommittee on Coal Tar By-products of Committee on Chemicals of American Gas Institute—The Recovery of Toluol from Gas Works—September 17, 1917.

Report—Bureau of Standards—Recovery of Light Oils and Refining of Toluol—October 15, 1917.

Minutes of Conference on Standards for Gas Service and the Recovery of Toluol—held at office of Bureau of Standards, Washington D. C., July 31, August 1 and 2, 1917—issued by Bureau of Standards October 15, 1917.

Report—Investigation Relative to Establishing a Calorific Standard for Gas—by Charles D. Jenkins, Inspector of Gas, Massachusetts Board of Gas and Electric Light Commissioners.

Decision—Massachusetts Board of Gas and Electric Light Commissioners—Calorific Standard for Gas—December 10, 1917.

The Utilities Magazine—November, 1917, p. 1—Should Gas Standards be Revised to Meet War Conditions, by A. S. B. Little.

Gas Age—November 1, 1917, p. 391—Editorials on "Toluol Recovery" and "Commissions and Toluol."

Gas Age—November 1, 1917, p. 393—Report on Production of Toluol by Gas Companies.

Gas Age—November 15, 1917, p. 443—Editorial on "Light Oil Recovery."

Gas Age—November 15, 1917, p. 447—Relation of Gas Industry to Military Needs, by Dr. E. B. Rosa.

Gas Age—December 1, 1917, p. 493—Editorial—Toluol Situation.

Gas Age—December 1, 1917, p. 495—Relation of Gas Industry to Military Needs, by Dr. E. B. Rosa (Concluded).

American Gas Engineering Journal—January 12, 1918, p. 31—In any Case where Toluol is to be Removed Candle Power Standard Should be Eliminated or Made so Low it will not Interfere with Operations, by R. S. McBride.

The report of the Subcommittee on Coal Tar By-products, hereinbefore referred to, estimates that gas companies operating in 80 specified cities of the United States could together produce approximately 7,300,000 gallons of toluol annually. The same report states that installation of plants for the recovery of toluol was going on or plants were actually operating in Chicago, Jersey City, Newark, Patterson, Minneapolis and St. Louis and that from these plants 1,250,000 gallons of toluol can be recovered annually. The report further estimates that an additional annual production of 3,274,000 gallons of toluol could be secured from seven gas plants in New York City, five in Brooklyn and the plants in Philadelphia, Boston and Detroit.

The extraction of the light oils and cognate matters, where a gas company operates its plant for the recovery of toluol, is being covered by contracts between the individual gas companies and the United States government. It is not necessary here to refer to the details of these contracts.

The extraction from artificial gas of light oils for the manufacture of toluol has required in some of the states changes in the theretofore existing standards of gas both as to candle power and heat units. Applications for such changes have been made to and acted upon by the state public service commissions of a number of Eastern states, including New York, Massachusetts and New Jersey.

In California, the production of artificial gas in quantities large enough to receive favorable consideration in this connection would seem to be limited to perhaps three or four of the larger cities. The report of the Subcommittee on Coal Tar By-products refers to the artificial gas plants located only in the cities of San Francisco, Oakland and Los Angeles.

The United States government has entered into no toluol contract with any gas company in California. We are advised that the government is awaiting the result of tests which are now being conducted to ascertain whether the possible toluol recovery from California artificial gas will be of sufficient amount to justify the installation of the necessary recovery plants. The average heat content of the artificial gas manufactured in the three California cities hereinbefore mentioned does not exceed between 550 and 565 B. t. u. Whether any such contracts will ultimately be entered into we do not know.

The California commission stands ready to take such action, if any, as may be within its jurisdiction and as may be necessary in case the government should call upon any California gas company to recover from its artificial gas light oils for the recovery of toluol.

At present, however, no contract has been entered into and it is uncertain whether any such action will be taken and, if so, when. I therefore recommend that further proceedings herein be suspended until the further order of the Railroad Commission, this proceeding, however, being kept open for such action, if any, as may hereafter become necessary or desirable.

I submit the following form of order:

**ORDER.**

A public hearing having been held in the above-entitled proceeding and it appearing that no action by the Railroad Commission is at this time necessary herein,

*It is hereby ordered* that further proceedings herein be suspended until the further order of the Railroad Commission, this proceeding, however, being kept open for such further order or orders as may hereafter appear necessary or desirable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-second day of March, 1918.

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DECISION No. 5220.

IN THE MATTER OF THE APPLICATION OF WILLIAM F. FOWLER,  
AS RECEIVER OF THE CANAL AND IRRIGATION SYSTEM, FORMERLY OWNED AND OPERATED BY THE SACRAMENTO VALLEY WEST SIDE CANAL COMPANY, TO LEASE TO P. B. CROSS CERTAIN RIGHTS IN THE SCHAAD LATERAL.

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Application No. 3576.

*Decided March 22, 1918.*

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The Schaad Canal, a portion of the irrigation system of applicant, having a capacity in excess of that needed by the utility to properly serve its consumers with water, applicant, William F. Fowler, is authorized to lease a portion of such canal to P. B. Cross for a period of forty years under the terms of a lease, a copy of which is required to be filed with the commission within ten days of its execution.

*William F. Fowler, in propria persona.*

*Bacigalupi & Elkus, by Charles Elkus, for P. B. Cross.*

*W. B. Ryder, for E. J. Tobin.*

THELEN, *Commissioner*.

**OPINION.**

William F. Fowler, receiver of the property formerly owned and operated by Sacramento Valley West Side Canal Company, in Glenn and Colusa counties, asks authority to lease to P. B. Cross for the term of forty years certain specified rights in the lateral which is known as Schaad lateral.

A public hearing was held in San Francisco on March 19, 1918, after notice published in a daily newspaper published in Willows.

The lease to be executed by Sacramento Valley West Side Canal Company and William F. Fowler, as receiver of the property of said company, a copy whereof is attached to the petition herein, provides, in part, as follows:

(1) That the portion of the Schaad lateral affected by the lease is a strip of land thirty feet on each side of a center line described as follows:

Beginning at a point in the south line of the Schaad Addition to the Sacramento Valley Colony No. 4 as per map thereof recorded in Book 2 of Maps and Surveys, page 219, Records of Glenn County, said point being 54.8 feet west of the southeast corner of lot 173 of said Schaad Addition, thence south 16 degrees 06 minutes east 733.9 feet to a point, thence south 39 degrees 01 minutes east 1,973.4 feet to a point thence south 0 degrees 01 minutes west 403.7 feet to a point in the boundary line between Glenn and Colusa counties, said point being also the northwest corner of lot 19 Sacramento Valley Colony No. 1 as per map thereof recorded in the office of the County Recorder of Colusa County on the twenty-fifth day of April, 1904.

Also "The westerly 45 feet of lot 19 Sacramento Valley Colony No. 1" above mentioned.

That Cross may use said portion of the Schaad lateral for the purpose of conducting water through the same to irrigate his lands, but that the use of the lateral by Cross shall in no wise interfere with or affect its use by the canal and irrigation system of Sacramento Valley West Side Canal Company.

(2) That if the demands of the lands entitled to be served with water from said canal and irrigation system shall require the present entire capacity of said portion of the Schaad lateral, Cross, if he desires to use the lateral, shall, at his own expense, make the necessary enlargement thereof.

(3) That said canal and irrigation system shall at all times have a preferential right to the use of said portion of the Schaad lateral for the delivery of water as a public utility to lands that are being or may be capable of being served by said canal and irrigation system through said lateral and that the rights granted by the lease are to be secondary to the use of the lateral as a public utility.

(4) That Cross shall, at his own cost and expense, keep said portion of the Schaad lateral in repair and maintain the same.

The lease contains other provisions to which it is not necessary here to refer.

It appears from the testimony herein that said portion of the Schaad lateral has a capacity in excess of its present requirements as a part of the public utility system formerly owned and operated by Sacramento Valley West Side Canal Company, and that the consummation of the proposed lease will result in a more complete utilization of said lateral without doing injury to anyone.

For the year 1918, the only lands lying before the portion of the Schaad lateral here under consideration which have applied for water are lots 78 and 100 of Sacramento Valley Colony No. 1, totalling approximately 80 acres. These lands are within the limits of the recently formed Princeton-Codora-Glenn Irrigation District.

As it appears that all existing rights are to be safeguarded and that the result of granting this application will simply be to produce a more efficient use of the existing facilities for the irrigation of additional lands, I recommend that the petition be granted and submit herewith the following form of order:

**ORDER.**

William F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, having filed herein his petition asking authority to lease to P. B. Cross the right to use the portion of the Schaad lateral described in the opinion which precedes this order under the terms and conditions of the form of lease hereinafter referred to, a public hearing having been held and the Railroad Commission being fully advised,

*It is hereby ordered* that William F. Fowler, receiver of the public utility water system formerly owned and operated by Sacramento Valley West Side Canal Company, be and he is hereby authorized to lease to P. B. Cross, for the period of forty (40) years, and under the terms and conditions which are set forth in copy of proposed lease which is attached to the petition herein and marked Exhibit "A," that portion of the Schaad lateral which is described in the opinion which precedes this order.

Within ten days after the execution of the lease herein authorized petitioner shall file with the Railroad Commission a certified copy thereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-second day of March, 1918.

## DECISION No. 5221.

IN THE MATTER OF THE APPLICATION OF WILLIAM F. FOWLER, AS RECEIVER OF THE CANAL AND IRRIGATION SYSTEM, FORMERLY OWNED AND OPERATED BY THE SACRAMENTO VALLEY WEST SIDE CANAL COMPANY, TO LEASE TO P. B. CROSS CERTAIN RIGHTS IN THE "N" LATERAL.

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Application No. 3577.

*Decided March 22, 1918.*

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Fowler authorized to lease to Cross, for a period of forty years, a portion of the "N" lateral of the canal and irrigation system, which lateral at the present time has a capacity larger than necessary to serve the demands of consumers of the utility, provided that the utility consumers have a prior right to the use of such canal and, should their requirements necessitate the operation of the canal at full capacity, enlargements shall be made at the expense of Cross.

*William F. Fowler, in propria persona.*

*Bacigalupi & Elkus, by Charles Elkus, for P. B. Cross.*

THELEX, *Commissioner.*

## OPINION.

William F. Fowler, receiver of the property formerly owned and operated by Sacramento Valley West Side Canal Company, in Glenn and Colusa counties, asks authority to lease to P. B. Cross for the term of forty years certain specified rights in the lateral which is known as the "N" lateral.

A public hearing was held in San Francisco on March 19, 1918, after notice published in a daily newspaper published in Willows.

The lease to be executed by Sacramento Valley West Side Canal Company and William F. Fowler, receiver of the property of said company, a copy whereof is attached to the petition herein, provides, in part, as follows:

1. That the portion of the "N" lateral affected by the lease is described as follows:

Beginning at a point on the boundary line between the properties of A. J. Razor and Henry Jamison, said point being north  $89^{\circ} 23'$  east 3,440.7 feet from the southwest corner of said Henry Jamison's property, thence north  $6^{\circ} 01'$  west, 4,365.4 feet to a point in the boundary line between the property of Henry Jamison and section 77 of the Glenn ranch survey, from which point the southwest corner of lot No. 1190 of the Jacinto unit bears south  $89^{\circ} 06'$  west 353.2 feet;

A strip of land 120 feet in width with parallel sides 60 feet on either side of the above-described center line for the first 1,380 feet of above-described course;

A strip of land 90 feet in width with parallel sides 45 feet on either side of the last 2,985.4 feet of the above-described course, containing in all 9.96 acres.

That Cross may use said portion of the "N" lateral for the purpose of conducting water through the same to irrigate his lands, but that the use of the lateral by Cross shall in no wise interfere with or affect its use by the canal and irrigation system of Sacramento Valley West Side Canal Company.

2. That if the demands of the lands entitled to be served with water from said canal and irrigation system shall require the present entire capacity of said portion of the "N" lateral, Cross, if he desires to use the lateral, shall, at his own expense, make the necessary enlargement thereof.

3. That said canal and irrigation system shall at all times have a preferential right to the use of said portion of the "N" lateral for the delivery of water as a public utility to lands that are being or may be capable of being served by said canal and irrigation system through said lateral and that the rights granted by the lease are to be secondary to the use of the lateral as a public utility.

4. That Cross shall, at his own cost and expense, keep said portion of the "N" lateral in repair and maintain the same.

It appears from the testimony herein that in 1917, 34 acres of land were irrigated below the southern terminus of that portion of the "N" lateral here under consideration and that in 1918, application for water has been made for only 30 acres below such terminus. The testimony shows that this portion of the "N" lateral can easily take care of a considerably larger amount of water than that necessary to irrigate said lands which have made application for 1918.

As it appears that all existing rights are to be safeguarded and that the result of granting this application will simply be to produce a more efficient use of the existing facilities for the irrigation of additional lands, I recommend that the petition be granted and submit the following form of order:

#### ORDER.

William F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, having filed herein his petition asking authority to lease to P. B. Cross the right to use the portion of the "N" lateral described in the opinion which precedes this order under the terms and conditions of the form of lease hereinafter referred to, a public hearing having been held and the Railroad Commission being fully advised,

*It is hereby ordered* that William F. Fowler, receiver of the public utility water system formerly owned and operated by Sacramento Valley West Side Canal Company, be and he is hereby authorized to lease to P. B. Cross, for the period of forty (40) years, and under the terms and conditions which are set forth in copy of proposed lease

which is attached to the petition herein and marked Exhibit "A," that portion of the "N" lateral which is described in the opinion which precedes this order.

Within ten days after the execution of the lease herein authorized, petitioner shall file with the Railroad Commission a certified copy thereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-second day of March, 1918.

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DECISION No. 5226.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO MAKE A CHARGE OF TWO DOLLARS AND FIFTY CENTS AT SPECIAL LANDINGS LOCATED AT POINTS ON THE SACRAMENTO RIVER AND ON THE BAYS ADJACENT THERETO.

Application No. 3587.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSPORTATION COMPANY FOR AUTHORITY TO MAKE A CHARGE OF TWO DOLLARS AND FIFTY CENTS AT SPECIAL LANDINGS LOCATED AT POINTS ON THE SACRAMENTO RIVER AND ON THE BAYS ADJACENT THERETO.

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Application No. 3586.

*Decided March 25, 1918.*

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It is held that a common carrier has the right to charge for a special service and also that such charge should be assessed against the parties receiving such special service and not absorbed by the business as a whole. Applicants authorized to establish a minimum charge of \$2.50 for freight received or delivered at special landings along the Sacramento River. A minimum charge of 25 cents is now assessed for freight received or delivered at regular landings.

*Sanborn & Rochl*, for California Transportation Company.

*Elmer Westlake*, for Southern Pacific Company.

*H. E. Stocker*, for San Francisco Chamber of Commerce.

*G. J. Bradley*, for Merchants and Manufacturers Association of Sacramento.

*H. E. Cole*, for California Fruit Exchange.

*A. A. Montgomery*, for Pioneer Fruit Company.

*S. M. Dickey*, for Farmers Protective Association.

*Charles Studarus, George B. Green and Peter Huth*, for Sacramento River Farmers Association.



LOWELAND, *Commissioner*.

### OPINION.

The proceedings in these two applications were heard together and they will be disposed of in one opinion and order.

The application of Southern Pacific Company seeks authority to publish in its Steamer Line Tariff No. 541-A, C. R. C. No. 1916, the following rule:

#### "CHARGE FOR MAKING SPECIAL LANDINGS.

Rates named in this tariff apply to and from regular landings maintained by this company and a charge of \$2.50 will be made for making a special landing at any point other than at such regular landings. This charge of \$2.50 applies in addition to regular tariff rates.

The regular landings are as follows:

San Francisco, Pacific-street wharf	Ryde
Port Costa	Walnut Grove
Benicia	Walnut Grove (Railroad dock)
Collinsville	Vorden
Emmerton	Courtland
Rio Vista	Hood
Isleton	Clarksburg
	Sacramento (K-street wharf)"

The authority sought by the California Transportation Company is similar to that of the Southern Pacific Company, except that its regular landings are as shown below:

San Francisco	Ryde
Crockett	Walnut Grove
Benicia	Grand Island wharf
Martinez	Vorden
Emmerton	Courtland
Rio Vista	Clarksburg
Isleton	Sacramento

These applications were originally presented under date of February 8, 1918, and they are the outgrowth of the suggestions made in this commission's Decision No. 4968, Application No. 2924, dated December 17, 1917, wherein the Southern Pacific Company was granted authority to increase certain class and commodity rates. In the decision the commission used the following language:

"The expedited movement of farm products from Sacramento River districts, its regular and speedy arrival at the packing houses, canneries and produce markets is a necessary part of the transportation service and, without doubt, farmers would prefer slightly increased freight rates to any radical reduction in the operation of scheduled boats.

"At times the boat of one carrier is taking on freight at a bank landing, while the boat of another carrier, in response to a flag signal, is backing water in the stream waiting to make a pickup at the same landing. In each case the stops might involve only a 50-cent shipment going to the same destination, both of which could have been moved via the one line except for the whim of the consignor.

"It is suggested an effort be made to reduce the number of boat stops, either by consolidating landings which are closely adjacent, by dividing the landings between the carriers, or by one company working the east bank of the river, while the west bank is handled exclusively by the other. Since the San Francisco and Sacramento Navigation Company does but little intermediate business between San Francisco and Sacramento the division of territory would be an arrangement between the Southern Pacific Company and the California Transportation Company. During the slack seasons of the year the number of boats operated might be reduced without inconvenience to the shipping public."

Under date of February 15, 1918, applicants were informally authorized to publish, on less than statutory notice, the \$2.50 penalty charge for stopping at the special landings as set forth in the original applications. Subsequent to publication of the tariffs and before the same became effective, a vigorous protest reached the commission from interested parties at Sacramento and the authorizations given February 15 were canceled and the matter set down for a formal investigation.

At the hearing, March 14, petitioners amended their applications by substituting for the penalty charge of \$2.50 a minimum charge of \$2.50 per shipment received or delivered at the special landings. They also proposed to create twenty additional regular landings, ten on each side of the river, between McIntyre and Moore's, these to be nonagency stations for the receipt and delivery of freight and passengers, subject to the same minimum charge of 25 cents as now prevails at the regular agency stations mentioned in the applications; the twenty regular nonagency landings to be established and published as rapidly as representative committees of interested parties can agree upon satisfactory locations. This arrangement would provide thirty-eight regular landings.

Petitioners clearly and positively state that the extra charge is not suggested with any intention of increasing revenues, but is for the sole purpose of maintaining an expedited and regular service between San Francisco and Sacramento, reducing the liability of injury and death to their employees at the crude bank landings and cutting down expenses caused by excessive wear and tear to the steamers.

There are now some 120 bank landings and it was shown that during the busy seasons of the year the time lost on a trip between San Francisco

and Sacramento is from two to six hours in making landings at points where consignments are insignificant and could be handled with but slight inconvenience to the shippers at the established regular landing places.

A steamer loses at each bank landing from six to ten minutes exclusive of the time consumed in loading and unloading freight. Frequent stops make it impossible to dock at San Francisco on schedule time during the peak months of the shipping season, with the result that fruit and vegetables regularly miss the markets for which they are intended, to the great disadvantage and loss of the farmer, produce merchant and consuming public. In certain instances farmers have found it necessary to discontinue entirely the shipping of fruit and vegetables to San Francisco and Sacramento markets because of the failure of steamers to maintain running schedules and this produce has gone to the canneries at reduced prices.

Witnesses representing farmers and produce men testified to the effect that all interested parties would quickly adjust themselves to the changed conditions and could, without difficulty, handle small shipments through the regular landings at the minimum charge of 25 cents. The opinion appeared to be unanimous among witnesses that the steamers are serving entirely too many special bank landings and no opposition was offered to the petitions as amended.

Testimony was given with reference to the running schedules of the boats, their time of leaving and arrival at the terminals, the serving of alternate landings, working opposite sides of the river and the entire elimination of certain bank landings. These matters, however, were not included in the original petitions and while applicants were willing to stipulate that the commission give them consideration, I am of the opinion that this record is not in sufficient detail to pass upon these important points. It is suggested carriers cooperate in arranging the steamer schedules, the landings to be served and that, wherever possible, not more than one steamer per day stop at any one landing.

Should the relief extended by the granting of these applications and through the cooperation of the carriers themselves fail to remedy the difficulties in the running schedules and in reducing the special stops, specific applications may be presented to the commission for such further relief as the circumstances may warrant.

Shippers and carriers are urged to decide at once upon the twenty nonagency regular landings where the minimum charge of 25 cents shall be assessed.

These applications present questions of importance; first, that a carrier has the right to charge for a special service, and, second, that the charges be assessed where they rightfully belong and it is my conclusion the applications as amended should be granted.

I submit herewith the following form of order:

**ORDER.**

Applications having been made by the Southern Pacific Company and the California Transportation Company for permission to make a minimum charge of \$2.50 per shipment for freight received or delivered at special landings and a public hearing having been held on said applications and the commission being fully apprised in the premises,

*It is hereby ordered* by the Railroad Commission of the state of California that said applications be and the same are hereby granted.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of March, 1918.

DECISION No. 5227.

E. L. NUNN ET AL.

vs.

SUTTER BUTTE CANAL COMPANY.

Case No. 907.

HENRY H. CUTTER

vs.

SUTTER BUTTE CANAL COMPANY.

Case No. 1062.

GEO. TRANTER ET AL.

vs.

SUTTER BUTTE CANAL COMPANY AND GRIDLEY LAND AND IRRIGATION COMPANY.

Case No. 1083.

IN THE MATTER OF THE APPLICATION OF SUTTER BUTTE CANAL COMPANY FOR AN ORDER ESTABLISHING RATES, RULES AND REGULATIONS.

Application No. 2963.

*Decided March 25, 1918.*

1. It is found as a fact that the Sutter company and its predecessor were organized as public utilities, appropriated water for the irrigation of lands, have obtained franchises as public utilities and have been rendering service for compensation, and, notwithstanding the fact that it entered into so-called water right contracts, such action does not prevent it, even as to lands covered by such contracts, from being a public utility subject to the jurisdiction of this commission.

2. The value of real estate owned by the Sutter company in the form of rights of way is based on the present value of adjoining property, to which value the commission will not permit additions to be made through the use of multiples as claimed by the utility, to cover engineering, legal expenses, etc.
  3. A utility still in the development stage, which can considerably enlarge its business through the extensions of existing facilities, can not expect present consumers to pay rates sufficient to provide a return large enough to reimburse it for any deficit incurred in the past below what might be considered a reasonable rate.
  4. The ruling of the United States Supreme Court requiring that consideration be given to the water rights of a utility when fixing the value of its property is not considered as constituting a mandate to a regulatory body to enter the region of speculation as to such values; it is incumbent upon the utility itself to establish the existence of such values by satisfactory evidence.
  5. A utility which exercises reasonable diligence in attempting to reduce extraordinary expense caused by damage to its property through floods, and in connection with such repairs improves its property, is entitled to include a portion of such expense in its capital account.
  6. The expenses of a utility incurred in preparing its cases before the Railroad Commission can not be included in its entirety in its annual operating expense, for as such expense occurs only at infrequent intervals, it should be amortized over a period of years, as should also the expense of maintaining guards during the period of the war.
  7. A utility is not permitted to include amounts paid as damages in connection with court cases where the negligence of the utility has been legally proved. Only such damages as may be reasonably anticipated in the course of operation should be allowed in a rate base.
  8. The Railroad Commission has no jurisdiction to establish a rate to be paid by a person who does not desire to purchase water or to be placed in the status of a customer of a public utility with the right to call on the utility for water whenever he desires to do so.
  9. While it is recognized that irrigation consumers of certain utilities are accustomed to rates based on the number of acres irrigated, it is considered far more equitable to establish rates on a measured basis requiring each consumer to pay only for such water as he uses thereby materially conserving the supply for the irrigation of additional lands.
  10. It is held non-discriminatory for a utility to carry out contract rates with consumers who have paid an initial deposit, provided a rate is included in its schedules whereby prospective consumers may avail themselves of the lower rate provided they are willing to pay the same initial deposit which was paid by other consumers receiving service under the same rate.
  11. The commission will not require a utility to refund sums collected at the rate of \$10.00 per acre prior to the rendition of service when the consumer contracted to pay such amount and it was so provided in the rates of the utility on file with the commission, it being held that the return of such money could not be considered as reparation which the utility could be required to return due to its deviating unlawfully from its published schedule of rates.
- Increased schedule of rates for both flat and measured service established and Sutter company directed to file, for the approval of the commission, a revised set of rules and regulations governing its service. Complaints in all other particulars dismissed.

*Samuel J. Nunn*, for Complainants, Cases Nos. 907 and 1062.

*Charles L. Donohoe* and *W. T. Belica*, for Complainants, Case No. 1083.

*Isaac Frohman*, for Sutter-Butte Canal Company.

*Henry Ingram*, for Gridley Land and Irrigation Company.

DEVLIN, *Commissioner*.

**OPINION.**

The above-entitled proceedings involve the rates, rules, regulations and practices of the Sutter-Butte Canal Company. By consent of all parties the proceedings were combined for hearing and decision.

**Nature of proceedings.**

The complaint in Case No. 907 alleges in effect (1) that complainants, thirty-five in number, are users of water for the irrigation of their lands from the canals of the Sutter-Butte Canal Company; (2) that defendant is engaged in the business of selling water for irrigation to the residents of Sutter and Butte counties, California; (3) that the rates charged by defendant for water are unjust, unreasonable and discriminatory; (4) that defendant, as a condition precedent to the delivery of water, compels intending consumers to purchase a so-called "water right" obligating themselves thereby to pay \$10.00 per acre before service is commenced and for water in seasons when none is delivered; (5) that the rules, regulations and practices of defendant are discriminatory and unjust. Complainants ask that investigations be made, hearings had and just, reasonable and nondiscriminatory rates, rules and regulations established.

Defendant, in its answer, denies all the material allegations of complainants and alleges that its rate schedule does not produce a revenue sufficient to yield it the expenses of maintenance, operation, depreciation and a fair return on the value of its property.

Complainant in Case No. 1062 alleges in effect (1) that he is the owner of 154 acres of land in the so-called Richvale Colonies, Butte County, irrigated with water from defendant's irrigation system; (2) that in 1914, defendant refused to deliver water for irrigation to complainant except upon condition that complainant execute a so-called water right contract; (3) that a charge of \$1540.00, being \$10.00 per acre, was demanded in payment for said water right as a condition precedent to the extension of service, which charge is extortionate and unlawful; (4) that the charge provided by said contract when no water is delivered is unjust. Complainant asks that Sutter-Butte Canal Company be ordered to make reparation by paying to complainant the sum collected together with interest thereon; that complainant shall not be required to pay the amount unpaid and that it be declared that there was no consideration whatever for the promise to pay same.

Defendant, in its answer, denies all the material allegations of the complaint, and alleges that the above-mentioned contract and charges are in accordance with the legal rate schedule on file with this commission.

The proceeding in Case No. 1083 is brought by 36 consumers of the Sutter-Butte Canal Company who receive water through the lateral

ditch system of the Gridley Land and Irrigation Company, which latter company is joined as codefendant with Sutter-Butte Canal Company.

The complaint alleges in effect (1) that the Sutter-Butte Canal Company is a public utility water company delivering water to its consumers for compensation; (2) that the Gridley Land and Irrigation Company since its organization in 1909 has been operating a lateral ditch system for the purpose of conveying water from the main canal of the Sutter-Butte Canal Company to the lands of complainants; (3) that the Sutter-Butte Canal Company is obligated by its contracts and those of the California Irrigated Land Company and its successor, Irrigated Land Company of California—realty companies formed to market lands in Sutter and Butte counties—to deliver water to the lands of complainants without additional charge for the distribution of water through this lateral ditch system; (4) that the ditches of Gridley Land and Irrigation Company are in bad condition and an adequate quantity of water for irrigation has not been delivered; (5) that the property right to the ditches of the Gridley Land and Irrigation Company rests with the complainants herein because of adverse use and certain contracts with Butte County Canal Company and California Irrigated Farms Company; (6) that this commission heretofore made an order establishing a rate for the delivery of water through the Gridley laterals which if enforced will deprive complainants of their rights to the ditch system; and, (7) that the so-called Gridley lateral ditches are a necessary part of the Sutter-Butte Canal Company system.

Complainants ask that fair, just and nondiscriminatory rates, rules and regulations be established; that the order heretofore made establishing rates for the so-called Gridley lateral ditch system be annulled; that the Sutter-Butte Canal Company be required to take over and operate the Gridley lateral ditch system and that complainants be required to execute quitclaim deeds to the Sutter-Butte Canal Company of whatever right, title and interest they may have in these lateral ditches.

Defendants deny all the material allegations contained in the complaint.

Applicant, Sutter-Butte Canal Company, hereinafter referred to as canal company, in Application No. 2963, alleges, in effect, that its rates and charges do not produce a sufficient sum to return to it the necessary annual expenses, depreciation and interest and asks that just and remunerative rates and practices be established.

#### **History of properties.**

The first attempt to construct an irrigation system to supply the district now served by the Sutter-Butte Canal Company was made by F. R. Fleming. On July 29, 1902, he filed a notice of appropriation

of 100,000 miner's inches of the waters of the Feather River, the point of diversion to be in approximately the same location as the present intake of the Sutter-Butte Canal Company. He obtained promises of financial assistance provided he could show that a market existed for this water to the extent of 10,000 acres, and proceeded by a canvass of the district to obtain purchasers among the ranchers for 10,000 so-called water rights.

Mr. Fleming failed in this, and transferred his rights to D. C. McCallum who filed further appropriations of water. In 1903, these rights were transferred to the Butte County Canal Company, a corporation, incorporated February 20, 1903, under the laws of this state. The articles of incorporation are of the usual type of a public utility water company and state that the purpose of organization was, among other things, to acquire, own, sell, lease or otherwise dispose of water and water rights, to construct, maintain, lease, operate and conduct canals and water ditches; to locate, condemn or otherwise acquire rights of way, franchises, water and water rights or to sell, lease, or otherwise dispose of same for domestic, irrigation or any or all other purposes; to collect tolls and rents for the use of such water so furnished.

This company was promoted and financed by Willard M. Sheldon and associates, who proceeded to interest the ranchers in the use of water for irrigation.

In the attempt to sell water, public meetings were held and newspaper and poster advertising resorted to. Solicitors and ranchers who were particularly desirous that the ditch be constructed, assisted in selling the so-called water rights by a house to house canvass. By these methods, the owners of between 10,000 and 15,000 acres agreed to purchase a water right and buy water.

The company then proceeded with the construction of a portion of its main canal and lateral ditch system. It obtained franchises from Butte County on September 6, 1904, and Sutter County on January 3, 1905, giving it the right to operate a ditch system for the purpose of distributing and selling water to the inhabitants of said counties.

The Sutter-Butte Canal Company was incorporated under the laws of the state of California on January 5, 1911, as a public utility water company, and on January 16, 1911, purchased its plant from the Butte County Canal Company and has operated, extended and enlarged the system since that date.

During the period 1904 to 1911, when this system was owned and operated by the Butte County Canal Company, irrigation centered in the district east of Biggs and Gridley, Butte County, and in the vicinity of Live Oak, Sutter County. The irrigated area increased very slowly



between 1904 and 1911. Alfalfa, beans, peaches and grapes were the principal crops grown.

In order to increase the irrigated area and to profit by the sale of real estate, the owners of the canal company caused the Sacramento Valley Farms Company to be organized for the purpose of dealing in lands. This company acquired, subdivided and placed on the market a large tract of land in Sutter County lying south and west of Live Oak. That portion of the canal company's plant known as Chandon and Sunset system was partially constructed by this company to bring the water from the main canal to the lands which they proposed to market. In the latter part of 1911, the assets and liabilities of this company were acquired by the canal company, the purchase price being the issuance to the stockholders of the Sacramento Valley Farms Company of 4,232 shares of the capital stock of the Sutter-Butte Canal Company and the assumption by that company of certificates of indebtedness amounting to \$197,000.00. A considerable area of real estate and all ditches constructed were acquired in this transaction.

In the effort to further increase business, experiments were conducted in rice growing on the adobe lands west of Gridley and Biggs and in the vicinity of Richvale. These experiments proved successful and in 1911 rice was cultivated to an appreciable extent.

The large use of water per acre by rice materially increased the sales of this company and opened a field for future development which had hitherto been unknown. The rice industry increased very rapidly until in 1913 some 12,000 acres were irrigated from this system. Coincident with this development, real estate concerns sprang up for the subdivision and sale of these adobe lands. The canal company contracted with these concerns for the delivery of water. Principal among these real estate concerns was the Richvale Land Company, organized for the purpose of subdividing and selling a large tract of adobe land, now known as Richvale Colonies, for rice cultivation. This company contracted with the canal company to deliver water to this tract. The Richvale Land Company constructed a distribution ditch system throughout the tract, it being the intention of the company to deliver water until such time as a large percentage of the land was disposed of and then organize a mutual water company. This tract was, in large part, sold and successfully cultivated to rice, the land company meanwhile operating the distribution system, charging the ranchers the sum of 50 cents per acre for this service. Water was purchased from the Sutter-Butte Canal Company delivered at the end of its canal.

The service rendered during 1913 and 1914 was very poor, and a complaint was filed with this commission entitled, *A. J. Lofgren et al. vs. Richvale Land Company and Sutter-Butte Canal Company*, Case

No. 789. As a result of this complaint, Sutter-Butte Canal Company and the Richvale Land Company reached an agreement whereby the former company acquired and operated this distribution ditch system.

The rice industry has more than tripled the income of this company and bids fair to make it one of the most prosperous irrigation companies in the state.

In 1917, water was sold for the irrigation of 12,800 acres of rice, 600 acres of alfalfa, 7,000 acres of beans, 3,000 acres of orchards, 6,000 acres of corn and 1,200 acres of vines, gardens and miscellaneous crops, or a total of 36,000 acres irrigated.

The so-called Gridley laterals involved in Case No. 1083 were projected by the California Irrigated Farms Company, a corporation, organized for the purpose of subdividing and marketing real estate.

This company purchased a large body of land, known as Fagan ranch, surrounding the town of Gridley and acquired so-called water rights from the Butte County Canal Company as a necessary part of its campaign for the marketing of this land. In 1905, it proceeded to construct a system of laterals, now known as Gridley laterals or Gilstrap system. These laterals extended from the main canal of the Butte County Canal Company to and throughout the tract.

The company purposed to turn over these laterals to the purchasers of lands and pursuant to this plan there were organized and incorporated in 1906 two ditch companies known as Gridley Colony Ditch Company and the Gridley Ditch Company.

These companies operated and maintained said lateral ditches during 1906, 1907 and a part of 1908. In this year, a dispute arose and during the remainder of the year and in 1909 the Irrigated Land Company of California, successor to the California Irrigated Land Company, took over and operated these ditches. During this period, the Irrigated Land Company extended the ditches and served additional consumers.

In 1909, Gridley Colony Ditch Company, Gridley Ditch Company, Irrigated Land Company of California and the Butte County Canal Company deeded their right, title and interest in these laterals to W. H. Gilstrap, who later caused the Gridley Land and Irrigation Company to be incorporated and transferred his rights to it. Mr. Gilstrap and his successor, Gridley Land and Irrigation Company, were in possession of, operated, enlarged and extended these ditches until May 9, 1917, at which time the ditches were seized by the landowners supplied with water from them and have since been held and operated by them pending the adjudication of this proceeding.

#### **Description of properties.**

The Sutter-Butte Canal Company obtains its water supply by diversion from Feather River at a point on its westerly bank in the S. W.  $\frac{1}{4}$

of section 33, T. 19 N., R. 3 E. Water is diverted by means of a timber crib dam and is transmitted and distributed by earthen canals to the lands irrigated. The main canal, having a capacity of approximately 1,300 cubic feet per second, extends from this point in a southwesterly direction, a distance of 20 miles. Water is delivered by the main canal to a series of main laterals and is thence distributed by small laterals to its consumers. The entire canal system aggregates some 120 miles in length.

The system of the Gridley Land and Irrigation Company consists of approximately 30 miles of earthen canals extending from the main canal of the Sutter-Butte Canal Company to the irrigated land surrounding the town of Gridley.

The present rates of the Sutter-Butte Canal Company are those set out in the so-called water right certificates or contracts.

There are six forms of agreement outstanding. The first of these was issued by the Butte County Canal Company, the principal provisions being as follows:

(1) The canal company agrees to furnish water at the rate of one cubic foot per second for each 160 acres for the purpose of irrigating the following described land. (Then follows the description of the land.)

(2) The consumer on his part is to construct and maintain a ditch extending from the company's ditch to his land and agrees that said ditch may at the option of the first party (canal company) be taken over, enlarged and operated by it, provided such use does not interfere with the delivery of water to said lands, and grants to the canal company a right of way through these lands and right of entry thereon.

(3) That portion of the contract relating to rates follows:

"It is further understood and agreed, that the water covered by this contract shall be and become appurtenant to the land herein described, and can only be conveyed by and with a conveyance of said land; and all the covenants and conditions herein shall run with said land.

"The parties of the second part, in consideration of the construction of said main canal, and ditch rights and delivery of water agree to pay annually to the party of the first part, at its office, in gold coin of the United States, on the first day of September, for each and every year hereafter, the sum of sixty (60) dollars (that is to say at the rate of \$1.50 per acre annually), the first annual payment hereunder to become due and payable on the first day of September in the year in which water is first delivered at said gate, and shall be paid annually thereafter; provided, the amount herein agreed to be paid annually, shall, beginning with the eleventh annual payment and thereafter be reduced to the amount of forty (40) dollars annually (that is to say at the rate of \$1.00 per acre annually).

"All amounts becoming due under this contract shall be promptly paid when due, but if for any cause they should remain unpaid they shall draw interest at the rate of seven per cent per annum, compounded annually, if any amount hereunder shall remain due and unpaid for a space of six months the party of the first part may thereafter at any time while said amounts remain due and unpaid, upon written notice to the owner of said lands, release itself from further obligations to deliver water under this contract.

"It is further understood and agreed, that all sums due or to become due under this contract in favor of the party of the first part shall be and become a lien upon the lands herein described, and may be foreclosed as any other lien including costs and charges and all necessary and reasonable expenses, and attorney's fees connected therewith."

No charge was made from the holders of this type of contract as a condition precedent to the extension of service. The charge of \$1.50 per acre per year for the first ten years included the so-called water right charge.

Other contracts of the same form were issued which provided for a charge of \$1.00 per acre per year and a payment of \$5.00 or \$6.00 per acre for water right or initial payment at the time of the execution of the contract.

The second principal form of contract is that used by the Sutter-Butte Canal Company. It is essentially the same as that issued by the Butte County Canal Company. The rate was changed to \$2.00 per acre per year. A water right or initial charge of \$10.00 per acre was generally made from the consumers under this form.

When rice irrigation became an important part of the business of the company, a supplemental contract was issued providing for an additional charge of \$3.00 per acre per year during years when water is used for the irrigation of rice or a total charge of \$5.00 per acre per year for this service.

Where water is pumped from the ditch by the consumer a 50-cent reduction is made to partially compensate for the additional expense. A like reduction is made under a contract between the Sutter-Butte Canal Company and the Gridley Land and Irrigation Company. The reduction being made in consideration of the latter securing water right contracts for the Sutter-Butte Canal Company.

The more recent contracts of the Sutter-Butte Canal Company provide a rate of \$5.00 for rice and \$2.00 for all other crops, but are similar to the preceding in other respects.

In January, 1916, the canal company filed with the commission a short-term form of contract for water for rice irrigation. This form provides for a charge of \$7.00 per acre per annum. No initial payment is required of the consumer and the period of the contract is fixed at

one or more years at the option of the consumer. The cost of facilities necessary is advanced by the consumer but is considered in the nature of a loan which is returned at such time as the income from the lateral reaches a sufficient amount that the company could reasonably be required to construct the extension.

Following is a summary of the contracts outstanding:

TABLE I.

*Summary of Sutter-Butte Canal Company's Contracts Outstanding.*

\$1.00 flat rate .....	7,990 acres
1.50 rate for 10 years then \$1.00 rate .....	4,293 acres
2.00 flat rate .....	12,122 acres
2.00 and \$5.00 rate .....	18,159 acres
<i>Contracts under Gilstrap system:</i>	
\$1.50 flat rate .....	437 acres
2.00 flat rate .....	520 acres
1.50 and \$1.50 rate .....	837 acres
	1,794 acres
Total .....	44,358 acres
Deduct for roads, canals, drainage ditches and lands not irrigable ..	3,415 acres
Total irrigable area at long term contracts .....	40,943 acres
Short term contracts, \$7.00 per acre per year .....	7,140 acres
Grand total .....	48,383 acres
NOTE: \$1.50 and \$5.00 rates apply only in those seasons when additional water is taken for the irrigation of rice.	

The rates collected in 1917, including the short term contracts, follow:

TABLE II.

*Rates Collected by Sutter-Butte Canal Company in 1917.*

Rate	Area
\$1.00 per acre per year .....	10,631 acres
1.50 per acre per year .....	1,506 acres
2.00 per acre per year .....	16,360 acres
5.00 per acre per year (rice) .....	5,384 acres
7.00 per acre per year (rice) .....	7,440 acres
Total area charged .....	41,321 acres

Of the total area charged, 36,000 acres were actually irrigated.

**Conduct of proceedings.**

Public hearings were held in these proceedings in Gridley on June 6 and 7, 1917, and in San Francisco on November 26, 27, 28, 30 and December 1, 1917.

At the hearing it was stipulated by all concerned that all proceedings heretofore had before this commission to which Sutter-Butte Canal Company or Gridley Land and Irrigation Company was a party, the annual reports and data filed pursuant to General Order No. 38 of this

commission on file with this commission be considered as a part of these proceedings. A list follows:

1. *In the Matter of the Application of Sutter-Butte Canal Company* for an order authorizing it to issue and deliver certain of its bonds and ratifying and approving certain acts and things on the part of said corporation heretofore done and performed. Application No. 239.

2. *Gridley Water Users Association et al. vs. Sutter-Butte Canal Company et al.* Case No. 426.

3. *In the Matter of the Application of Gridley Land and Irrigation Company* to increase rates to be charged for irrigation water. Application No. 1506.

4. *James Faris vs. Sutter-Butte Canal Company.* Case No. 753.

5. *A. J. Lofgren et al. vs. Sutter-Butte Canal Company et al.* Case No. 789.

6. *In the Matter of the Application of Sutter-Butte Canal Company*, a corporation, and *Richvale Land Company*, a corporation, for order authorizing said Richvale Land Company to make certain grants and conveyances to Sutter-Butte Canal Company. Application No. 1770.

7. *In the Matter of the Application of Sutter-Butte Canal Company*, a corporation, for authority to issue certain promissory notes in renewal of notes now outstanding. Application No. 2007.

8. *In the Matter of the Application of Sutter-Butte Canal Company* to renew promissory note. Application No. 2044.

#### Canal company a public utility.

The canal company alleges that it is, and has been since its organization, a public utility and that its predecessor, the Butte County Canal Company, was a public utility. There was no denial of this allegation in the pleadings or by evidence of any of the parties to the proceedings. Nevertheless, the evidence bearing on this phase will be briefly reviewed.

The canal company claims its entire water supply by appropriation. The waters of the Feather River taken by the canal company are claimed under notices of appropriation filed by F. R. Fleming, D. C. McCallum, E. A. Bridgeford and Butte County Canal Company at various times between 1902 and 1905. The notices stated that the purpose and place of intended use were for irrigation in Butte, Sutter, Glenn and Colusa counties.

The Butte County Canal Company was incorporated as a public utility water company, its articles of incorporation providing, among other things, as follows:

“To acquire, own, bond, exchange, lease, sell or otherwise dispose of \* \* \* waters or water rights, to conduct, maintain, lease, operate and construct canals and water ditches; to locate, condemn, claim, divest or otherwise acquire rights of way, franchises, water

and water rights or to sell, lease or otherwise dispose of the same for domestic, irrigation or any or all other purposes; to collect tolls and rents for the use of such water so furnished."

The company obtained franchises from Sutter and Butte counties which granted to the Butte County Canal Company the right to construct, maintain and operate a system of canals, to cross highways, etc., for conducting water to be distributed and sold to the inhabitants of said counties for irrigation and other purposes.

The history of the canal company shows that an advertising campaign was conducted, public meetings held and canvass of the district made in the effort to obtain patrons of its irrigation system, the company holding itself out to serve all comers within the district. During the construction of the main transmission canal the company exercised its right of eminent domain and by that method acquired rights of way through the so-called Loony lands. Since that date, it has in at least two instances exercised this right in acquiring rights of way.

The company issued so-called water right certificates and contracted with the ranchers for the delivery of water at a certain specified rate.

On January 6, 1911, the Sutter-Butte Canal Company was incorporated and shortly thereafter acquired the system of the Butte County Canal Company.

Its articles of incorporation are those of a typical public utility water company and provide that the purposes for which the company was formed are, among others—

"To purchase, appropriate, divert or otherwise acquire, own, bond, exchange, lease, sell \* \* \* or in anywise deal in waters or water rights, rights of way, dams, canals and ditches.

"To construct, maintain, lease, operate and conduct canals and water ditches in the state of California or elsewhere with all the necessary distributing dams, gates, flumes and levees.

"To locate, condemn, claim, divert or otherwise acquire rights of way, franchises, water and water rights or to sell, lease or otherwise dispose of same for domestic, irrigation or any or all other purposes.

"To acquire, purchase, lease, mortgage, construct, equip, operate and maintain canals, flumes, ditches, pipe lines and water systems for the distribution of such waters for agricultural, domestic, manufacturing, mining, power and commercial purposes and for the supply of counties, cities and towns and the inhabitants thereof."

The canal company has filed with the Railroad Commission all its rates, rules and regulations and its annual reports subsequent to March 23, 1912. Numerous informal complaints have been filed with this commission and been acted upon without either the canal company or

any consumer, whether the holder of a water right contract or otherwise, objecting on the ground that the canal company was not a public utility subject to the jurisdiction of this commission.

On July 12, 1913, a large number of water users filed complaint with the Railroad Commission against the canal company alleging that complainants were water users and contract holders and that the canal company is a public utility, and praying that the canal company be required to take over and operate certain lateral ditches. *Gridley Water Users Association et al. vs. Sutter-Butte Canal Company et al.*, Case No. 426, Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 619.

Other formal complaints by consumers and applications by the canal company have been filed with this commission and decisions rendered thereon. These proceedings are enumerated above. The decisions in these proceedings, both formal and informal, have directly affected practically every consumer of the canal company, and these consumers have in no instance questioned the jurisdiction of the commission.

I find as a fact that this company and its predecessor, Butte County Canal Company, were organized as public utilities, appropriated water for the irrigation of certain lands and that the water so appropriated is now applied to those lands; obtained franchises from Sutter and Butte counties as public utilities; have held themselves out to serve anyone within the area of service for compensation, and by advertising and otherwise have solicited business generally from everyone within this area.

The fact that this company entered into so-called water right contracts does not prevent it, even as to the lands covered by such contracts, from being a public utility subject to the jurisdiction of the Railroad Commission. *Palermo Land and Water Co. vs. Railroad Commission*, 173 Cal. 380; *Limoncira Company et al. vs. Railroad Commission*, 174 Cal. 232.

#### Canal company's finances.

The articles of incorporation of the canal company provide for the issuance of 21,500 shares of stock of the par value of \$1,250,000.00 of which there are outstanding 12,198 shares.

A summary of the indebtedness of this company on October 31, 1917, follows:

TABLE III.

<i>Sutter-Butte Canal Company's Securities Outstanding October 31, 1917.</i>	
6 per cent first mortgage bonds .....	\$350,000 00
5 per cent Butte County Canal Company bonds .....	32,500 00
Notes payable, 6 per cent and 7 per cent .....	200,616 79
Total indebtedness .....	\$673,116 79



The following stock assessments have been levied and collected:

Assessment No. 1, levied December 28, 1911, \$10.00 per share	\$125,000 00
Assessment No. 2, levied November 8, 1912, 10.00 per share	122,700 00
Assessment No. 3, levied March 24, 1914, 5.00 per share	61,350 00
Assessment No. 4, levied July 17, 1915, 5.00 per share	60,990 00
Total	\$370,040 00

Mr. R. A. Pabst, one of the commission's auditors, reports the assets and liabilities of this company and its profit and loss statement as of December 31, 1916, as shown on the books of the company, in commission's Exhibit No. 1, as follows:

TABLE IV.

*Assets and Liabilities of Sutter-Butte Canal Company as of December 31, 1916.*

ASSETS.	
Fixed capital installed prior to January 1, 1913 (Schedule A-5)	\$1,988,721 32
Fixed capital installed since December 31, 1912 (Schedule A-6)	154,738 06
Total fixed capital	\$1,243,459 38
Cash	3,787 59
Notes receivable (Schedule A-7)	4,662 01
Due from consumers and agents	39,006 43
Miscellaneous accounts receivable	1,493 41
Interest and dividends receivable	7,679 25
Other current assets	4,983 00
Miscellaneous investments	334,114 01
Materials and supplies	3,921 12
Sinking funds (Schedule A-11)	1,361 38
Treasury securities	65,200 00
Other suspense	7,994 47
Corporate deficit	663,093 62
Total assets	\$2,381,355 40
LIABILITIES.	
Capital stock (Schedule A-12)	\$1,250,000 00
Funded debt (Schedule A-13)	428,000 00
Notes payable (Schedule A-15)	307,791 99
Consumers' deposits	5,927 15
Miscellaneous accounts payable	2,590 45
Interest accrued	16,503 75
Taxes accrued	502 06
Assessments	370,040 00
Total liabilities	\$2,381,355 40

TABLE V.

*Sutter-Butte Canal Company's Profit and Loss Statement for Year 1916.*

Income	
Water charges	\$123,744 83
Interest revenues	9,649 25
Rents from real estate owned	5,912 01
Total income	\$139,306 09

*Expenses*

Pumping expenses .....	\$7,216 44	
Distribution expenses .....	33,509 03	
Commercial expenses .....	1,288 08	
General expenses:		
Salaries .....	8,400 00	
Office expenses .....	2,018 42	
Law expenses .....	3,738 21	
Railroad expenses .....	5,470 52	
Injuries and damages .....	2,545 52	
Other general expense .....	90 00	
Insurance .....	989 10	
Extraordinary repairs .....	44 75	
Taxes .....	3,777 50	
		\$69,988 37
Interest .....		42,456 67

*Nonoperating expenses—*

Rent expenses .....	\$4,996 15	
Miscellaneous nonoperating expenses .....	1,781 25	
Miscellaneous rent reductions .....	89 00	
Expenses unprovided for elsewhere .....	545 00	4,411 40
		\$115,956 44

Profit for year's operation .....	823,349 65
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*Additions to surplus—*

Bad bills collected .....	891 40	
Profit on bonds purchased by trustee .....	762 50	
Rebate on interest on note .....	2,775 00	
		3,628 90

*Deductions from surplus—*

Discount for payment of securities not bearing interest .....	\$901 30	
Discount on notes sold .....	35 05	
Loss on real estate sold .....	127 50	
Uncollectible water bills .....	9,711 15	
Accounts receivable written off .....	23 21	
Suspense accounts written off .....	11 50	
Refund of overpayments .....	94 90	
		10,907 61

Net profit for year .....	\$16,070 94
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In 1916, the sum of \$6,205.00 was put into a sinking fund for the purpose of redeeming the company's outstanding securities. The interest charge on these securities is \$40,308.00 annually, which, together with the sinking fund, requires the payment from the annual income of the company of \$46,513.00.

From the financial standpoint, it is necessary that this company have an income of approximately \$120,000.00 to meet maintenance, and operation expense and depreciation and interest on outstanding securities in order to break even without considering dividends or profits to stockholders.

**VALUATION.****Appraisal of canals and structures.**

Appraisals were submitted by George S. Nickerson for the canal company and R. W. Hawley and C. H. Loveland for the commission.

A tabulated summary of these appraisals follows:

TABLE VI.

*Comparative Summary of Appraisals of Canals and Structures.*

Item	Company's engineer		Commission's engineers
	Reproduction cost	Present value	Estimated cost new
Diversion dam -----	\$41,020 00	\$32,816 00	\$29,364 00
Main headgate -----	21,731 00	19,179 00	14,700 00
Excavation--			
Main canal -----	213,172 00	213,172 00	183,837 00
Laterals -----	308,478 00	308,478 00	278,693 00
Structures--			
Main canal -----	47,061 00	37,585 00	40,647 00
Laterals -----	165,911 00	147,195 00	149,232 00
Equipment and tools -----	7,249 00	7,249 00	8,749 00
Net addition for new construction----	10,862 00	10,862 00	10,862 00
Totals -----	\$815,517 00	\$776,536 00	\$716,084 00

The Nickerson appraisal is based on average prices of materials and labor during the years 1913 to 1916, inclusive. That of the hydraulic division of the commission is based upon prices obtaining during the five years directly preceding the recent abnormal increase due to war conditions. The principal difference in these appraisals is the estimated cost of earthwork. The average price of excavation estimated by the commission's hydraulic division is 23 cents higher than the cost of excavation on the Sacramento Valley Westside Canal Company system which the evidence shows is similar to that of Sutter-Butte Canal Company. Further, the estimate of the commission's hydraulic division of that portion of this company's system known as the Chandon lateral system, is larger than the cost, as shown by cost records of the company. Mr. Nickerson's estimate of earthwork cost is some \$59,000.00 in excess of that by the hydraulic division.

After carefully considering the testimony relating to these appraisals, I believe that the estimate by the commission's hydraulic division is fair.

**Real estate.**

Mr. Nickerson, for the canal company, estimated a value of \$137,655.00 for rights of way, the price per acre being \$100.00 and \$150.00. This is based on the present value of lands adjacent to the canal plus an addition of 11 per cent for engineering, legal expenses and interest during construction.

It appears from all the evidence that the rate per acre is a fair estimate of the value of adjoining property. The addition of 11 per cent for overhead is manifestly unjust and not in accord with the law as set out in the decision of the highest court in the land. In the *Minnesota Rate Case*, 230 U. S. 352, the Supreme Court of the United States says:

“The company certainly would have no ground of complaint if it were allowed a value for these lands equal to the fair average market value of similar land in the vicinity without additions by the use of multipliers or otherwise to cover hypothetical outlays. The allowances made below for a conjectural cost of acquisition and consequential damages must be disapproved; and in this view we also think it was error to add to the amount taken as the present value of the lands the further sums calculated on that value, which were embraced in the items of ‘engineering, superintendence, legal expenses,’ ‘contingencies’ and ‘interest during construction’.”

Thus the court fixes the maximum to be allowed for real estate and certainly the canal company will be treated fairly if the average value of adjacent land is included and especially in view of the fact that the record shows that a considerable portion of the right of way was donated or was purchased at prices of grain land before irrigation increased the value to that claimed herein.

Pursuing the method in the past employed by this commission, I recommend that the sum of \$124,039.00 be included for real estate and rights of way.

**Franchise value, going concern and development of business.**

The canal company claims that the elements enumerated above have a substantial value.

Mr. Gordon Hall, president of the canal company, testified that the total investment was approximately \$1,114,000.00 and adding interest compounded at 8 per cent, the total sum of which it is claimed the investors in the canal company have been deprived is \$1,750,000.00.

There is included as a part of this expenditure the sum of \$11,000.00 for the development of the rice business which was expended by the company in obtaining a government rice experiment station at Biggs.

The sum of \$11,000.00 is made up of a lease for \$1.00 per year for 20 years on 56.24 acres of land, extension of ditches, delivery of free water and cash donations.

The taking over and operating of the Richvale laterals, at the request of the commission, it is contended cost the canal company \$20,000.00. No definite data was submitted as to the cost and apparently no deduction was made for the appraised value of that portion of the system.

The purchase of the assets of the Sacramento Valley Farms Company at a cost of \$197,000.00 is another element of the claimed development expense. A description of this transaction is included hereinbefore. There is included in this sum \$26,398.00 spent on construction work, the balance being largely nonoperative lands. The annual report of this company for 1916 shows the book value of nonoperative lands to be as follows:

Real estate owned .....	\$71,792 24
First mortgages on real estate .....	35,450 00
Second mortgages on real estate .....	9,370 79
Contracts for the sale of real estate, title not to pass until final payment .....	30,853 21
Total .....	\$147,466 24

The canal system was purchased for \$400,000.00 in bonds, which has since been reduced to \$350,000.00 supposedly out of earnings, \$50,000.00 borrowed from the Crocker National Bank of San Francisco which is still outstanding and \$40,000.00 in cash. The Sacramento Valley Farms Company was purchased by the issuance of notes to the amount of \$197,000.00. The holders of these securities are in large part stockholders of the canal company.

The total outstanding interest bearing indebtedness is \$673,116.79, as shown in Sutter-Butte Exhibit X. The annual interest charge thereon is \$40,308.00. This interest has been paid with the exception of \$23,133.39 accrued interest as of October 31, 1917.

It is now asked that not only compound interest at 8 per cent on actual cash advanced be included as development expense, but also compound interest on bonds and notes for which interest at 6 per cent has already been paid out of earnings.

We find this company at this time still in its development stage. It has an adequate water supply available for a much larger acreage than is now irrigated, and by the enlargement and extension of its existing facilities can deliver water to this additional area. Apparently the canal company realizes this for it makes no claim for the inclusion of these elements of value for the purpose of these proceedings, expressly reserving the right, however, to ask for their inclusion in the future.

This system being still in its development stage, it would assuredly be unfair to the present consumers to compel them to reimburse the company for any deficit in the past below what might now be considered a reasonable rate. The rate schedule which I shall recommend be established will be adequate to produce an income sufficient to return to the company interest on the value of these elements at such time as the system has reached its full development.

**Water rights.**

The canal company filed an appraisal of its properties, but in such appraisal made no reference to water right values. There was some slight testimony on the part of witnesses for the company regarding these values. Mr. Hall, the president of the company, in the course of his testimony, suggested three methods upon which a rate base could be established. In the course of his discussion of method No. 2 in this regard, Mr. Hall stated:

"If one were to allow any value to the water right and put it as low as \$100.00 for one second foot and give us 1,500 second-foot appropriation, that would be \$150,000.00 and actual disbursements for development of business which might come under going concern or what not—those sums added together, no interest on these items, the total is \$1,751,945.00."

This was all of the testimony of Mr. Hall regarding water right values. The only other witness whose testimony related to water right values was Chas. T. Tullock, superintendent of the canal company. Mr. Tullock, in response to a question by counsel for the company as to whether the witness heard and concurred in the opinion of Mr. Hall as to the value of the water right of the Sutter-Butte Canal Company on the Feather River and as to whether or not Mr. Hall's judgment of such value was reasonable, declared that in his opinion the same was reasonable but stated that his recollection was that Mr. Hall had declared \$150.00 per cubic foot for 1,500 feet as the value of the water right of the company. Mr. Tullock stated in substance that he based his opinion upon his experience and upon knowledge of a transaction of San Joaquin Land and Irrigation Company for a water right on the Stanislaus River. Mr. Tullock admitted that he did not know the amount of the cost attending the acquisition of the water rights by the Sutter-Butte Company, and in reply to the following question from counsel for one of the protestants—

*Question.* "Should my clients, the water users, be charged a return value on that \$225,000.00?"

Answered, "Well, I don't know that that would come up for rate fixing at the present time. I don't know that it would. It might be beneficial in the future."

The testimony of Mr. Hall, above quoted, and the testimony of Mr. Tullock, the substance of which is given, constitute all of the evidence in the records in support of water values. It is far from certain from such evidence that it is the intention or desire of the company to have water right values included in the rate base in the present proceedings.

If it is the desire of the company to have such values included, then it must be very apparent that the evidence in support of such contention falls far short of that which should be required upon which to predicate a finding of value of water rights. This statement is made having fully in mind the rule declared by the United States Supreme Court in *San Joaquin and Kings River Canal and Irrigation Company vs. County of Stanislaus*, 233 U. S. 454, in which case the court declares that water rights acquired by appropriation should be given consideration. Such pronouncement, in my opinion, does not constitute a mandate to the regulatory body to enter the region of speculation or guess as to such values, but the obligation still rests upon the party claiming the existence of such values to establish same by satisfactory evidence. Such evidence is absent in the present proceedings.

#### Cost of plant.

The books of the company show no cost of constructing the entire system, but the various proceedings and documents in evidence disclose the following:

TABLE VII.

#### Cost of Plant.

Gross purchase price .....	\$530,722 00
Less credit for sale of water rights.....	27,310 00
Net purchase price .....	\$503,412 00
Purchase Sacramento Valley Farms Company .....	197,000 00
Construction account 1911-1916, inclusive.....	262,281 00
Total .....	\$962,693 00

The item of \$262,281.00 represents only the sum expended on construction of plant and not any sum which may have been advanced by stockholders for deficits in maintenance and operation expenses, damages, or promotion of business.

Contained in the item of \$197,000.00, is the sum of \$26,398.00 which is the amount spent by the Sacramento Valley Farms Company in the construction of canals and structures. This sum does not, however, include the cost of rights of way for the so-called Chandon or Sunset lateral ditches.

The canal company has now acquired from the Gridley Land and Irrigation Company a portion of its system at a cost of approximately \$10,000.00 and it has now become a part of the operative system. The canal company must immediately proceed to improve and repair this system. The estimated cost of the work is \$10,641.00, or a total investment of \$20,641.00. I recommend that this sum be included in the rate base.

It is hereby found as a fact that the sum of \$871,764.00 is a fair value of the system of Sutter-Butte Canal Company to be used for the purposes of these proceedings.

**Depreciation fund.**

Mr. Nickerson, for the canal company, submitted the sum of \$10,565.60 as the annual depreciation of the plant of this company, arriving thereat by the so-called straight line method. The commission's hydraulic division, in its appraisal, using the sinking fund method of depreciation, reports the sum of \$7,572.00. The merits of the various methods of arriving at a sum to be set aside annually for this purpose have been discussed fully by this commission in numerous proceedings, among which is *Town of Antioch vs. Pacific Gas and Electric Co.*, Vol. 5, Opinions and Orders of the Railroad Commission of California, pages 19, 39, 40, and it is unnecessary to discuss it further herein. The canal company has never set up a depreciation reserve, but has included cost of replacements in maintenance and operation expenses.

**Maintenance and operation expense.**

Tabulations showing the maintenance and operation expenses of this company were prepared by C. N. Gilleece for the canal company and by R. A. Pabst, one of the commission's auditors. The data submitted by both the company and the commission check sums shown in the annual reports.

The total operating expenses for 1916 were \$69,088.00 and it appears from the testimony that 1916 is a fair criterion of future expense.

Certain modifications of this sum are necessary to arrive at an amount equal to the annually recurrent expenditures and those extraordinary expenditures, occurring at irregular intervals, which should be amortized over a period of years.

There is included in the data submitted showing the expenses for the year 1916, the sum of \$4,590.00 which was expended to replace structures which outlived their usefulness.

This charge was made in this manner on the assumption that it was in the nature of a depreciation allowance. There has been computed an annuity sufficient to meet necessary replacement of plant and if the above sum is also included the one would duplicate the other.

On every irrigation system of this kind, there occur small breaks in canals, seepage on adjacent cultivated lands and numerous other damages which must be paid. The record shows that during the past six years, this company has expended \$23,204.00 for this purpose or an average annual amount of \$3,875.00. The annual sum of \$4,000.00 is included for this expense.

The records of run-off of the Feather River show that excessive floods occurred in 1907, 1909 and 1914.

This river is peculiarly located in that the district to the west of the river slopes away from the river. At times of excessive floods the



water escapes from the river bed proper and spreads over the surrounding country. Debris and silt are carried into the canals, structures are washed away, embankments are weakened and extensive repairs are invariably necessary on the diversion dam.

This flood condition occurs also on numerous sloughs and small streams in the district through which the canals extend. The flood of 1914 necessitated repairs costing \$17,363.00. The records of cost of repairs due to previous floods are not available.

In 1912, during the excessively low water, a portion of the dam was burned and it was repaired at a cost of \$10,610.00.

The record shows that the utility has at least exercised reasonable diligence in attempting to reduce or eliminate this extraordinary expense. The dams, canals and structures were not only repaired, but the stability was increased and better and more permanent structures were constructed. A part of these expenditures are, therefore, properly chargeable to capital account. The available records of cost are not in sufficient detail to separate construction costs from extraordinary maintenance. Mr. Tullock testified that the expense in repairing this damage would equal an annual allowance of at least \$6,000.00 to \$7,000.00. Mr. George L. Dillman, consulting engineer, testified that \$9,000.00 annually would be a reasonable allowance. A careful analysis of the expense incurred in repairing the dam and canals in 1914 indicates the following segregation:

	Capital Expense	Extraordinary Maintenance
Temporary bridge and miscellaneous.....		\$903 00
Break in canals, removing silt, etc.....		2,349 00
Bridges on main canal.....	\$3,911 00	1,000 00
Small repairs and auto expense.....		221 00
Work on dam.....	7,976 00	1,000 00
	\$11,890 00	\$5,173 00

Records of past occurrence show that since 1907 damage has been done to the system every second year. I am of the opinion that \$3,000.00 is a liberal annual allowance to be included for this item.

Increased federal and state taxes have materially increased that item over the 1916 taxes. Sutter-Butte Exhibit Q shows 1917 taxes as \$7,132.36 less \$670.00 on annual depreciation, or a net tax of \$6,666.36, and it appears fair that this increase in taxes be included.

There is included in the 1916 expenses an item of \$5,471.00 for Railroad Commission expense which is a part of the expense incurred in preparation for this hearing. This is not an expense which recurs annually. The total expense of this company in preparing for this

proceeding was \$10,791.91, as set out in Sutter-Butte Exhibit R. I shall recommend that this expense be amortized over a period of ten years and that in addition there be included the sum of \$700.00 which is the approximate average of the three preceding years.

The canal company states that it is and will be necessary to maintain two guards at its dam during the continuance of the war at a cost of \$1,800.00 annually. This expense is not a continuing thing, and I believe should be amortized over a period of years. The sum of \$800.00 is included.

Under the heading "harassing litigation" there is submitted a claim for an annual allowance in maintenance and operation expense of \$20,000.00. There are five examples of this expense cited; of the five, one only is in the form of judgment, the balance being still pending. One item of this claimed expense is litigation involving the title to rights of way of the Richvale system acquired from the Richvale Land Company. This item is properly chargeable to capital and is included in the appraisalment of rights of way.

All record of expenses heretofore have been entered on the records of the company and must necessarily have been included in the records of maintenance and operation expense available. A fair sum to cover this expense has been included above.

The rendering of a judgment in an action for damages necessarily carries with it a finding of negligence and notwithstanding the utility may still urge its freedom from liability, we are compelled to accept the final judgment of the court as conclusive as to negligence.

The question arises whether or not the company shall be permitted to pass along to the consumers who are in no wise at fault, the penalty imposed by law upon the utility for negligence legally established, or is such a loss, one which the utility would have to charge to profit and loss and not be recouped in rates. I am of the opinion that only such damages as may be reasonably anticipated in the course of operation with reasonable care should be allowed in a rate base and the sum of \$4,000.00 included above for damages is adequate to care for such expenses of this nature as are properly chargeable to maintenance and operation.

In view of increased costs of material and labor, the average cost of maintenance and operation for some years will undoubtedly be materially increased. The canal company claimed that it would amount to an appreciable sum. This increased cost has been considered and allowance made herein.

Mr. Gordon Hall, president of the canal company, stated that heretofore no salaries had been received by any of the officers of the company although he had devoted at least one half of his time to this

company. I believe, that for a company of this size which has a general superintendent at a salary of \$6,000.00 per year in charge of its operations, it is too much to ask that another general officer be paid a salary of \$6,000.00 per year. The general plan of operation and financing is a matter for the board of directors and such fees as is customary should be included for their services. While it is evident that the president of this company is attentive to its business, a salary of this kind is a burden which I believe the consumers should not bear at this stage of the development of the company.

The canal company has now acquired and will operate a portion of the Gridley Land and Irrigation Company's system. The estimated cost of maintaining and operating this system is \$2,000.00 annually. The company is incurring this expense at the request of the consumers.

It is hereby found as a fact that the sum of \$72,995.00 is a fair sum to include for the annual maintenance and operation expense of this company.

A tabulated summary of the annual charges follows:

Interest on \$871,764.00 at 8 per cent-----	\$69,741 00
Depreciation annuity -----	7,572 00
Maintenance and operation expense-----	72,995 00
Total -----	\$150,308 00

It is found as a fact that the above sum is a fair and just amount to be annually produced by the canal company's rate schedule.

#### Income.

A summary of operating revenue from Sutter-Butte Exhibits U and W and commission's Exhibit No. 1, follows:

TABLE VIII.  
*Operating Revenue.*

Year	Revenue
1911 -----	\$19,928 00
1912 -----	30,243 00
1913 -----	50,617 00
1914 -----	85,686 00
1915 -----	94,268 00
1916 -----	130,258 00
1917 -----	124,610 00

It is obvious that the gross revenue of this company has not equaled the annual charges as set out herein.

A tabulation follows showing the total area charged under the outstanding contracts and the irrigated and nonirrigated portions of this area for the years 1916 and 1917.

TABLE IX.  
*Water Charges 1916 and 1917.*  
*Lands Charged.*

Rate per acre per annum	1916		1917	
	Area	Amount	Area	Amount
\$1.00 -----	10,561	\$10,561	10,631	\$10,631
1.50 -----	417	626	320	480
1.50 (Gilstrap system) -----	577	865	1,186	1,779
2.00 -----	12,123	24,246	16,360	32,720
4.50 -----	607	2,732		
5.00 -----	10,470	52,350	5,384	26,920
7.00 -----	5,554	38,878	7,440	52,080
Totals -----	40,309	\$130,258	41,321	\$121,610

*Lands Charged (Not Irrigated).*

\$1.00 -----	521	\$521	741	\$741
1.50 (Gilstrap and Sutter-Butte) -----	152	228	747	1,120
2.00 -----	1,636	3,272	3,833	7,666
Totals -----	2,309	\$4,021	5,321	\$9,527

*Lands Charged (Irrigated).*

\$1.00 -----	13,040	\$10,040	9,890	\$9,890
1.50 -----	265	398	215	323
1.50 (Gilstrap system) -----	577	865	544	816
2.00 -----	10,487	20,974	12,527	25,054
4.50 -----	607	2,732		
5.00 -----	10,470	52,350	5,384	26,920
7.00 -----	5,554	38,878	7,440	52,080
Totals -----	38,000	\$126,237	36,000	\$115,083

Under the present rates one consumer may be paying \$1.00 annually per acre while his neighbor is paying \$1.50 or \$2.00 per acre for the same service. This discrimination is due to the fact that the predecessor of the Sutter-Butte Canal Company issued contracts providing for a \$1.00 and \$1.50 rate while the canal company issued its contracts for \$2.00 for the same class of service.

That the commission can not permit this discrimination to continue is obvious. The rates to be established in this proceeding must be uniform and nondiscriminatory in their application.

The revenue of this company will be materially reduced by the elimination of the area which has heretofore been paying an annual charge but has not used water for irrigation, and which does not carry the initial charge payment.

This phase was discussed by Commissioner Thelen in Decision No. 4478, *In the Matter of the Application of Madera Canal and Irrigation Company for an order authorizing increases in rates charged for water sold for irrigation*, Application No. 2381, decided July 23, 1917, who states in part as follows:

"This commission has jurisdiction to establish the rate to be paid for water sold by a public utility or the rate to be paid by a customer desiring to establish the relationship of customer and utility, (a minimum rate for readiness to serve), but not a rate to be paid by a person who does not desire to purchase water or to be placed in the status of customer of a public utility water company with the right to call on the utility for water whenever he desires to do so."

It is a difficult matter to satisfactorily estimate the area that will be cultivated to rice in the future. It appears from the evidence that at the time rice was first grown in this vicinity little was known concerning water grass and its eradication. The land became impregnated with this weed to such an extent that it was found impossible to grow rice without discontinuing its cultivation for one or more years to eradicate this noxious weed. Thus in any year a sufficient area of land might be lying fallow or use only sufficient water to sprout the water grass which is a part of the procedure by which it is eradicated, to materially affect the income of the company. It appears, however, that experience has taught that if the land is kept clear of this grass by exercising care and especially during the first year of its cultivation to rice this hazard can be materially reduced, if not in fact eliminated, at a reasonable expense per acre. The following tabulation shows the area cultivated to rice and other crops 1914 to 1917, inclusive:

TABLE X.  
*Area Planted to Rice and other Crops, 1914-1917, Inclusive.*

Crop	1914, acres	1915, acres	1916, acres	1917, acres
Rice	11,700	12,550	16,631	12,800
Other crops	19,800	21,750	21,369	23,200
Totals	31,500	34,300	38,000	36,000

\*No deduction for nonirrigated area.

Mr. Tullock estimated that the rice area irrigated in 1918 will approximate the area irrigated in 1917.

The present national food problem has undoubtedly stimulated the cultivation of large areas additional to those which would have been cultivated in a normal period. This is especially true of rice. On the other hand, this is a business in its development and the growth was

rapid even before the war emergency existed. In computing rates the area that it could be reasonably expected that the company would irrigate with the expense as set out above will be used.

The canal company claims that its average loss due to uncollectible bills is 8 per cent of the gross income, and that this will continue.

This loss appears abnormal. The record shows that the percentage while large in 1912, 1913 and 1914 was reduced by 50 per cent in 1915. The percentage of uncollectible bills was greatly increased due to the burning of the dam and floods. This has been cared for under damages.

The company henceforth will be operating under a new schedule of rates, rules and regulations such as it has been the practice of this commission to put into effect and as set out in Decision No. 2689, in the matter of the practice of water, gas and telephone utilities requiring deposits before rendering service, which provides means for the reduction of this loss to a minimum.

Such allowance will be made in estimating income from rates for this element as seems fair and reasonable under the conditions obtaining.

A small portion of the area served by this company is above the level of the ditches and it is necessary to render the additional service of pumping.

I believe that it is unjust that this expense be borne by the consumers at large and shall recommend that a charge of \$1.00 per acre for rice and 50 cents per acre for other crops be established for this service.

#### **Form of rate.**

Messrs. Hawley and Loveland both testified that the only method whereby the burden of the expense of this system can be equitably distributed among the consumers is through the establishment of a measured rate schedule whereby each consumer will pay on a quantity basis for the water used. The canal company asks that both a flat rate and measured schedule be established leaving it optional with either party whether or not a measuring device be installed. In regard to the advisability of selling water on a measured rate base, I can do no better than quote Commissioner Thelen in Decision No. 4478, *In the Matter of the Application of Madera Canal and Irrigation Company for an order authorizing increases in rates charged for water sold for irrigation*, Application No. 2381, decided July 23, 1917, as follows:

“While I appreciate that the consumers under this system have long been accustomed to a rate based on the number of acres irrigated and hence naturally cling to it, I am convinced that the acre-foot rate is fundamentally right and should be adopted under this system. The acre-foot rate is right, (1) because it is funda-

mentally just that each consumer should pay for what he receives, which can be done only by measuring the water; and, (2) because the sale of water by measure creates prudence in the use of water and checks waste, increases the amount of water available to the community and thus helps to develop a larger acreage and to increase the general prosperity.

"The canal company is willing to install and operate the necessary measuring devices in connection with an acre-foot rate and asks authority to do so.

"I am satisfied that after a fair test, the consumers under this system will agree that the acre-foot form of rate is more just and constructive than the acre rate heretofore in effect."

#### **Rate schedule.**

After a careful consideration of all the evidence in these proceedings, I find as a fact that the following are fair and reasonable rates to be charged by Sutter-Butte Canal Company for water delivered from its canals and laterals.

##### *Flat rate.*

Rice, \$7.00 per acre per year.

Grain irrigation, 50 cents per acre per irrigation.

Plowing for water grass, first irrigation, \$1.00 per acre; subsequent irrigation, 50 cents per acre per irrigation.

All other crops, \$2.50 per acre per year.

##### *Measured rate (rice irrigation).*

Where water is measured, the rate shall be as follows: Minimum charge per acre per year -

Rice irrigation, \$4.00 for 3 acre-feet or less.

Grain, water grass or plowing, 75 cents for  $\frac{1}{2}$  acre-foot or less.

All other crops, \$2.00 for  $1\frac{1}{2}$  acre-feet or less.

Excess at the rate of \$1.25 per acre-foot.

Heretofore the relation between the canal company and its consumers has been established by contract.

The canal company now asks that in view of the fact that the consumers have paid the so-called water right or initial charge that it would be unfair to increase their rate without considering this fact and request that the rates which have heretofore been charged, as set out in the Sutter-Butte contracts (\$5.00 per acre for rice and \$2.00 for all other crops), remain in effect. It is obvious from the foregoing analysis of the rate that this is an appreciable reduction. Complainants in Case No. 1083 also ask that consideration be given the fact that they have made an advance payment on rates and that a lower rate be established for them and anyone who desires to enter the same class by paying an initial charge, than for the consumer who pays from year to year without making this advance payment.

A large portion of the users of water from this system have paid an initial charge of \$10.00 per acre and whether this payment was for water

rights or in the nature of an advance payment on rates as a part of the water rental, the consumers have paid it and it seems unfair that new consumers who have not made a similar advance should receive service at the same cost as those who have made this payment. As stated by Commissioner Thelen in Decision No. 2531, *In the Matter of the Application of James A. Murray and Ed Fletcher, and La Mesa, Lemon Grove and Spring Valley Irrigation District*, Application No. 1432, Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 373:

"On the other hand, in the absence of a decision by the Supreme Court of this State holding that these moneys can be recovered, the Railroad Commission would be inclined in so far as it could, on the facts of this case, to give effect, in equity, to the moneys thus paid and to regard them, in so far as it can do consistently with the establishment of uniform rates and the prevention of discrimination, as advance payments on rates, so that the consumers holding these contracts will have the normal rates which they otherwise would be compelled to pay, reduced to the extent of reasonable interest on the moneys which they have paid."

This question was also discussed by Commissioner Eshleman in Decision No. 536, being *Application of James A. Murray and Ed Fletcher*, Application No. 118, Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 501:

"Before leaving this subject, however, I think it well to say that contracts entered into in good faith between public utilities and their patrons that are not forced or compelled in any way and are based upon an adequate consideration should be adopted so far as is consistent with adequate regulation as the basis for the rates for the service performed by a public utility for its patrons."

I can see no reason why these contract rates should not be continued in effect without discrimination if a rate schedule be established that will permit of a prospective consumer receiving the same rate by paying an initial charge or paying a higher rate if without this charge. I believe it would but work justice to those consumers of the canal company who have paid this initial charge to establish the lower rate. The existing discrimination between the various contract holders should be removed, however, and I recommend that in addition to the schedule set out above there be established a rate schedule including an initial charge.

Of the 40,943 acres under contract, slightly in excess of 30,000 have contracted at the \$2.00 per acre rate. All the contracts for rice irrigation provide for the payment of \$5.00 per acre per year.



The rate of \$5.00 for rice irrigation and \$2.00 for all other crops with an initial payment of \$10.00 is substantially in accord with the rule declared in the Cuyamaca case, *supra*.

I find as a fact that the following are just and reasonable rates:

Initial payment .....	\$10.00 per acre
Rice irrigation .....	5.00 per acre per year
All other crops .....	2.00 per acre per year

The rules and regulations herein provided cover all essential dealings with consumers.

#### **Rules and regulations.**

It was admitted by all complainants that the service rendered by the canal company has been good. Thus, it is not necessary to discuss rules and regulations from that angle. The changed relation between consumer and company, however, will necessitate some revision.

The principal point brought out at the hearing related to the date on or before which the canal company must be notified each year that a consumer desires water. Mr. Tullock of the canal company, contended that notice should be given on or before September 1st of each year. His reasons are that the laterals are serving to their capacity and if a new consumer desires water for any material acreage it would be necessary to increase the capacity and it is necessary to do this work before the winter rains set in. Further, where extensions are necessary, it requires some time for their construction and the rainy season may extend well up to the irrigation season and make it physically impossible to construct the lateral in time to deliver water for the first irrigation.

If the canal company has contracted or agreed to deliver water for that irrigating season it lays itself open to a claim for damages if water is not delivered. This is evidenced in the case of the American Rice and Alfalfa Company where that company obtained judgment for \$20,000.00 against the Sutter-Butte Canal Company because of claimed injury to crops due to failure to deliver water in the early spring. Mr. Tullock also stated that of the area irrigated to rice a considerable area discontinued service for one or two years in order to eradicate water grass and if no notice is given of the proposed discontinuance the company would proceed in the fall of the year to expend moneys in the repair of that lateral or enlarge it in order to deliver water to a supposedly increased area whereas in reality the area during the next succeeding year would be much decreased thus burdening the canal company and the other consumers with that unnecessary and useless expense.

All parties at the hearing agreed that notification of the canal company at the date above mentioned would work no hardship on consumers other than those cultivating rice. Mr. Nunn contended that many

owners of rice land did not have their land leased before January 1 of each year and therefore could not know before that time whether they would irrigate or not and that the rice market fluctuated to such an extent that rice growers could not know before early spring whether they would plant rice or not. After carefully considering this phase, I believe that prospective consumers, the service of whom will require the extension or enlargement of existing facilities, should be required to give the canal company as much time as possible to complete its preparations and on the other hand it would work a hardship on some consumers if a hard and fast rule were made requiring them to give notice by September 1.

I shall, therefore, recommend that a rule be put into effect requiring prospective consumers for whose service it is necessary to enlarge or extend a canal and existing consumers whom the canal company has given at least thirty days notice that prospective business may require the enlargement of existing facilities, to file application for water for the next succeeding year on or before October 1, and the canal company not be obligated to serve those who do not apply before this date. All other consumers must file application on or before January 1 of each year. The company may, however, deliver water to those who apply subsequent to these dates provided it has water available and can prepare the ditches for its delivery.

If any question arises in the future as to whether or not it is feasible for the canal company to deliver water to a belated applicant and if this commission's attention is directed to it, such relief can be given as is justified in the specific case.

The contracts heretofore in effect provide for payment of the entire rate on September 1 of each year. Although there was no objection to this at the hearing, I am of the opinion that the payment of the entire charge at one time works a hardship on the consumer and I shall recommend that the payments be made as follows:

*Flat rates (rice lands).*

\$1.00 per acre to accompany application.

3.00 per acre payable on or before February 1st.

3.00 per acre payable on or before July 1st.

*Other crops.*

\$0.50 per acre to accompany application.

1.00 per acre payable on or before February 1st.

1.00 per acre payable on or before July 1st.

*Measured rates (rice lands).*

\$1.00 per acre to accompany application.

3.00 per acre payable on or before February 1st.

Use over 3 acre-feet per acre payable at end of month of use.

*Other crops.*

\$0.50 per acre to accompany application.

1.50 per acre on or before February 1st.

Use over 1½ acre-feet per acre payable at end of month of use.

Measuring devices are not at present installed on this system. It should be the privilege of either the consumer or the company to apply the measured rate, which rate must remain in effect until this commission's consent is obtained to the substitution of another form of rate. The cost of the measuring devices must under the decisions of this commission ultimately be borne by the utility. However, where the consumer asks to be served under the measured rate, I believe the canal company should be permitted to require a deposit to cover the cost of installation, which deposit must be returned to the consumer at the end of one year, either in cash or as a credit on rates.

**Cases 1062 and 1083.**

There now remains to be discussed those portions of the complaints in Cases 1062 and 1083 which are not directly involved in rate fixing.

The complaint of *Tranter et al.*, Case No. 1083, in addition to bringing into question the rates of the canal company involves the question of title to the so-called Gilstrap ditches and asks that the commission compel Sutter-Butte Canal Company to take over and operate these ditches.

This matter was presented for this commission's consideration in the complaint of *Gridley Water Users Association et al. vs. Sutter-Butte Canal Co., Gridley Land and Irrigation Company, California Irrigated Land Co., Irrigated Land Company of California and W. H. Gilstrap*, Case No. 426, Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 618, and again, *In the Matter of the Application of Gridley Land and Irrigation Company to increase rates to be charged for irrigation water*, Application No. 1506, reported in Vol. 11, Opinions and Orders of the Railroad Commission of California, p. 672.

For a full discussion of this matter, reference is made to those decisions.

During the course of this hearing a tentative agreement was reached between complaints in Case No. 1083, *Sutter-Butte Canal Company and Gridley Land and Irrigation Company*, to the effect that Sutter-Butte Canal Company would acquire these laterals from the Gridley Land and Irrigation Company upon the execution by complainants of a certain agreement and deeds for right of way of which complainants claim ownership. This agreement was admitted in evidence as Tranter Exhibit No. 9, and provides in effect that the Sutter-Butte will acquire from Gridley Land and Irrigation Company, maintain and operate these laterals upon the execution of deeds to all rights of way from owners of lands through which these laterals pass. The Sutter Butte Canal Company has done all that can be reasonably expected of it to consummate this agreement but certain landowners, and especially those adjacent

to the so-called Lateral No. 1 ditches of this system, have refused to execute these deeds. The canal company upon the execution of the above-mentioned contract caused a survey to be made of these laterals and obtained an abstract of title of the various parcels of land involved at considerable expense. I am now informed that a sufficient percentage of the landowners on that portion of the system known as Lateral No. 4, comprising approximately one-half of the system, have executed these deeds and that the canal company has now acquired that lateral and will operate it commencing with the present irrigation season.

Permission to transfer this portion of the so-called Gilstrap system was granted by this commission in Decision No. 5125, *In the Matter of the Application of Sutter-Butte Canal Company and Gridley Land and Irrigation Company for order authorizing said company to sell a portion of its system to Sutter-Butte Canal Company*, Application No. 3508. The canal company stands ready to take over the remaining portion of this system, and now complainants have refused to do their part in the very things which they sought, through the power of this commission, to force Sutter-Butte Canal Company to do. I shall recommend that this complaint in Case No. 1083 be dismissed in so far as it relates to the taking over and operation of these laterals by Sutter-Butte Canal Company and the Gridley Land and Irrigation Company, although I am of the opinion that consumers and utility can hope to secure satisfactory service only when service is rendered direct to the individual consumer and not through an intermediary.

Complainant Henry H. Cutter in Case No. 1062, asks that this commission order Sutter-Butte Canal Company to return the moneys collected in payment for a so-called water right or advance payment on rates. This charge was made in 1914 and was for the payment of \$1,540.00, being at the rate of \$10.00 per acre for 154 acres. The canal company contends that this payment was demanded in accordance with its tolls and charges on file with this commission at that time and is a part of its rate schedule and that the rates, including the so-called water right charge do not produce the revenue to which it is entitled. It is further contended that these rates have had the approval of this commission by being filed and adopted as rates and being the legal rates in effect no charge could be made without the authority of this commission.

The complainant, on the other hand, contends it is a charge made as a condition precedent to the extension of service and that it is unlawful for a public utility to make such charge. It is a well established principle in this state that a utility can not demand payment for a water right, *in addition* to the established rates, as a condition precedent to service. *San Diego Land and Town Company vs. National City*, 74 Fed.

79, 86; *San Joaquin and Kings River Canal and Irrigation Co. vs. Stanislaus County*, 191 Fed. 875, 891, and *Byington vs. Sacramento Valley West Side Canal Co.*, 170 Cal. 124.

This contract was made subsequent to the effective date of the Public Utilities Act and had the tentative approval of this commission by being filed and permitted to be effective as a rate; therefore, the return of the money collected could not be considered reparation, due to the utility unlawfully deviating from its legal schedule of rates. The preceding computation of rates shows that the annual charges provided in the contract, together with the so-called water right payment, approximates a fair rate for the service rendered.

#### ORDER.

Public hearings having been held in the above-entitled proceedings and said proceedings having been regularly submitted and being now ready for decision,

The Railroad Commission of the state of California hereby makes the following findings of fact:

(1) The Railroad Commission finds that the rates, charges, rules, regulations, contracts and practices in the service of water of Sutter-Butte Canal Company are unjust and unreasonable in so far as they differ from the rates, charges, rules, regulations, contracts and practices herein established.

(2) The Railroad Commission hereby finds that the rates, charges, rules, regulations, contracts and practices herein established are just and reasonable rates, charges, rules, regulations, contracts and practices.

Basing its order on the foregoing findings of fact and each statement of fact contained in the opinion which precedes this order,

*It is hereby ordered* as follows:

(1) Sutter-Butte Canal Company is hereby ordered to establish and file with the Railroad Commission, on or before twenty (20) days from the date of this order, the following rates for water:

#### SCHEDULE No. 1.

##### *Flat Rates.*

Rice irrigation, \$7.00 per acre per year.  
 Grain, 50 cents per acre per irrigation.  
 Water grass or plowing, \$1.00 per acre first irrigation.  
 Water grass or plowing, 50 cents per acre each subsequent irrigation.  
 All other crops, \$2.50 per acre per year.

#### SCHEDULE No. 2.

##### *Measured Rates.*

Minimum charge per acre per year—  
 Rice irrigation ..... \$1.00 for 3 acre-feet or less  
 Grain and water grass ..... 75 for  $\frac{1}{2}$  acre-foot or less  
 All other crops ..... 2.00 for  $1\frac{1}{2}$  acre-feet or less  
 Excess at the rate of ..... 1.25 per acre-foot

## SCHEDULE No. 3.

Initial charge ..... \$10.00 per acre

*Annual Charges - Flat Rates.*

Rice irrigation ..... \$5.00 per acre

All other crops ..... 2.00 per acre

*Measured Rates.*

Minimum:

Rice, \$3.00 per acre per year for 3 acre feet or less.

All other crops, \$1.50 per acre per year for 1½ acre feet or less.

Excess at the rate of \$1.25 per acre foot.

(2) Sutter-Butte Canal Company shall file and put into effect within twenty (20) days from the date of this order, revised rules, regulations and contracts to conform with the findings herein and with the rules laid down by the commission in its Decision No. 2879, Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 372.

*It is further ordered* that in all other respects these proceedings be and the same are hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty fifth day of March, 1918.

## DECISION No. 5230.

BRAY LUMBER AND BOX COMPANY, PACIFIC SHINGLE AND BOX  
COMPANY, McARTHUR & KAUFFMAN,

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1079.

*Decided March 25, 1918.*

When a petition is filed alleging discrimination in rates, it is necessary to show, in connection with rates used in comparison, that conditions are substantially similar; the commission is not barred from considering comparison of interstate rates with intrastate rates.

Voluntary reductions in rates made by a common carrier to prevent the construction of a competing line which was never built, can not be used as justification to continue a discriminatory situation found to exist. Defendant directed to file, within thirty days, for the approval of the commission tariffs removing discrimination en mill refuse from points north of Red Bluff to Sacramento, Stockton, San Jose, San Francisco and intermediate points.

*A. W. Kuor,* for Complainants.

*Frank B. Austin,* for Defendant.

BY THE COMMISSION.

OPINION.

Complainants, the Bray Lumber and Box Company of Bray, the Pacific Shingle and Box Company of San Jose, and MacArthur & Kauffman of San Francisco, are engaged in the lumber and fuel wood business and by complaint filed May 14, 1917, allege that the rates on mill refuse from points in California, north of Red Bluff, including Weed, Cole and Dorris, to Sacramento, Stockton, San Jose, San Francisco and the intermediate territory, are discriminatory when compared with rates on the same commodity from Westwood to the same destinations. The commission is asked to award reparation in the sum of \$945.20 on shipments moved on and after January 25, 1915, and to remove the discrimination in rates.

Defendant denies the rates attacked are discriminatory or that damages in the sum of \$945.20, or any part thereof, have been sustained by complainants and avers that the complaint being predicated upon a comparison with interstate rates leaves this commission without jurisdiction.

To this latter defense the commission can give no consideration, for the test of unjust discrimination between competing points is found in the rates applicable from those points rather than the different authorities by which the rates were established. When rates are alleged to be discriminatory it must be shown in connection with rates used in comparison that the transportation conditions are substantially similar and in this proceeding it is entirely proper to compare the intrastate rates with the interstate rates between the competitive points.

The following table shows a comparison of the rates from Boca, Westwood, Hilt and Dorris to certain California destinations on lumber and mill refuse:

	FROM										
	Local			West-coast			Hill			Ports	
	Miles	Lumber (1)	Rates MIL refuse (2)	Miles	Lumber (3)	Rates MIL refuse (4)	Miles	Lumber (5)	Rates MIL refuse (6)	Lumber (7)	MIL refuse (8)
Sacramento -----	127.5	(a) \$2.00	\$1.95	323.0	\$2.00	\$1.95	313.0	(d) \$2.00	(f) \$2.00	\$2.00	(h) \$2.00
Stockton -----	169.8	(b) 3 10	1 95	365.3	3 10	1 95	355.3	(c) 3 10	2 25	3 10	2 50
Oakland (Kirkham St.) -----	212.1	3 10	1 95	407.6	3 10	1 95	372.2	3 10	2 25	3 10	2 50
San Francisco -----	216.3	3 10	1 95	411.8	3 10	(c) 1 95	376.4	3 10	2 25	3 10	2 50
San Jose -----	249.1	3 10	1 95	441.6	3 10	1 95	412.2	3 10	(g) 2 50	3 10	(i) 2 50

- (1) Effective June 29, 1940, except (a) February 6, 1941, and (b) September 18, 1940.  
(2) Effective December 25, 1941.  
(3) Effective December 18, 1943.  
(4) Effective December 14, 1944, except (c) November 21, 1944.  
(5) Effective June 29, 1940, except (b) May 25, 1945, and (c) September 27, 1945.  
(6) Effective September 29, 1941, except (d) May 25, 1945, and (e) December 25, 1941.  
(7) Effective May 25, 1945.  
(8) Effective December 30, 1944, except (b) May 25, 1945, and (d) March 15, 1945.

NOTE. The dates shown above are the effective dates of the rates appearing in tariffs filed with the commission and are not in all instances the dates upon which the rates were originally established.



The table demonstrates that the Boca rates on lumber were in effect in the year 1910 and on mill refuse in 1911 and they were extended to apply from Westwood on lumber in 1913 and on mill refuse in 1914, thus placing these producing points on a rate equality, notwithstanding the fact that the distance from Westwood to the points in question is 195 miles greater.

The Hilt and Dorris rates on lumber to Sacramento were reduced to \$2.00 per ton May 25, 1915, to conform to the rates in effect from Boca-Westwood, indicating defendant's intention, so far as lumber was concerned, to place these producing points on a parity, but the rates on mill refuse were not equalized, therefore Westwood has, to the different destinations, preferential rates on the mill refuse ranging from 5 cents to 55 cents per ton.

It is to be noted that from Hilt and Dorris to Sacramento the mill refuse rates are the same, \$2.00 per ton, or 5 cents higher than from the Boca-Westwood group; to Stockton, Oakland and San Francisco, Hilt has an advantage of 25 cents per ton over Dorris and is at a disadvantage of 30 cents per ton over Boca-Westwood; to San Jose from Hilt and Dorris the rates are the same, but are 55 cents per ton higher than from Boca-Westwood.

All the originating points are located in the mountainous districts of northern and northeastern California. The mountain haul from Hilt and Dorris to Red Bluff is a distance of 180 and 190 miles, respectively, while from Westwood to Roseville, within the distance of 305 miles, the tonnage passes over two mountain ranges, with approximately 170 miles of mountain haul. Dorris and Westwood involve branch line service of 63 miles from the first-named point and 169 miles from the second. The transportation from Boca, Hilt and Dorris is entirely intrastate, that from Westwood is interstate, passing through Fernley, Nevada.

Defendant contends that the reason for extending the Boca rates to Westwood, California, via the long and difficult route through Fernley, Nevada, was occasioned by the building of the Western Pacific, which company contemplated the construction of a branch line from Keddle to Westwood and had agreed with the lumber company to extend the Keddle rates, corresponding to the Southern Pacific Boca rates, to the Westwood tonnage. To forestall this threatened competition into the Westwood timber belt the rates to California points were reduced to the Boca-Keddle basis then in effect.

Had the branch line been constructed and actual competition created this defendant could have sought relief under the long and short haul provisions of the state constitution, but since the Western Pacific never built into Westwood and no actual competition was ever created the action of the Southern Pacific in cutting the rates can not be used as a

justification for the discriminatory situation now existing. The mileage from Westwood, Hilt and Dorris to the consuming centers is practically the same with the mountain hauls, and branch line conditions materially in favor of Hilt and Dorris, and as defendant equalized the lumber rates it should not continue a discrimination in favor of Westwood in the publication of rates on mill refuse.

We find that the rates assailed are unduly prejudicial to complainants, preferential to complainants' competitors at Westwood and unjustly discriminatory. Defendant will be expected to file tariffs, within thirty days from the date of this order, removing the discrimination.

The sole question remaining for determination is whether these complainants are entitled to reparation. The testimony of record shows they purchased mill refuse indiscriminately at Westwood, Hilt, Weed and the other mills, and that the selling mills equalized the freight charge from the point of origin, hence I find that complainants are not entitled to reparation.

#### ORDER.

Complaint having been made by the Bray Lumber Company, Pacific Shingle and Box Company and MacArthur & Kauffman, complainants, versus the Southern Pacific Company, defendant, alleging discrimination in the rates on mill refuse from various producing points north of Red Bluff, to Sacramento, Stockton, San Jose, San Francisco and intermediate points, and a hearing having been held and the commission being fully advised in the premises, it is hereby found as a fact that the rates charged by defendant for the transportation of mill refuse from the points north of Red Bluff to Sacramento, Stockton, San Jose, San Francisco and intermediate points are unjust and unduly discriminatory as compared with the rates from Westwood, California, to the same destinations, and basing its order on this finding of fact and the further findings of fact found in the foregoing opinion.

*It is hereby ordered* that the Southern Pacific Company within thirty (30) days from the date of this order submit, for the approval of this commission, a tariff removing the discrimination found to exist.

Dated at San Francisco, California, this twenty-fifth day of March, 1918.

## DECISION No. 5234.

IN THE MATTER OF THE APPLICATION OF WILLIAM F. FOWLER, RECEIVER OF THE PROPERTY OF SACRAMENTO VALLEY WEST SIDE CANAL COMPANY, FOR AN ORDER AUTHORIZING AN INCREASE IN RATES FOR WATER FOR IRRIGATION.

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Application No. 3360.

*Decided March 26, 1918.*

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Applicant authorized to lease to the Princeton-Codora-Glenn Irrigation District for the irrigation season of 1918, that portion of the canal and irrigation system known as the River Branch canal running a distance of approximately fourteen and one-half miles.

BY THE COMMISSION.

**SUPPLEMENTAL OPINION.**

In the opinion of March 12, 1918, in the above-entitled proceeding, this commission referred to the possibility of installing a 36-inch pump for lifting water from the Sacramento River at Sidd's Landing into the River Branch canal and expressed the hope that all parties interested would cooperate to this end so as to increase the amount of land which can be irrigated for the production of foodstuffs in 1918.

The commission is now in receipt of a letter, dated March 22, 1918, from Mr. Frank Moody, attorney for Princeton-Codora-Glenn Irrigation District, stating that the district is taking steps to comply with the commission's suggestion in this behalf and enclosing form of lease from Mr. William F. Fowler, as receiver of the canal and irrigation system formerly owned and operated by Sacramento Valley West Side Canal Company, to Princeton-Codora-Glenn Irrigation District, leasing the River Branch canal beginning on the north line of section 43 of the Glenn ranch survey and extending southerly along the River road, a distance of approximately 14½ miles, to the south line of the subdivision of the Hubbard ranch.

The letter from Judge Moody explains that it is desirable to enter into this lease so as to legalize the use thereof to Princeton-Codora-Glenn Irrigation District in connection with the proposed pumping of water from the Sacramento River at Sidd's Landing.

The form of lease provides that the use of the River Branch canal thereunder by Princeton-Codora-Glenn Irrigation District shall in no wise interfere with or curtail the conveyance of water to the lands situated within the boundaries of said irrigation district which have been allotted water from said canal operating as a public utility for the season of 1918, as provided by said decision of March 12, 1918, herein. The form of lease further provides that its term shall be for the irrigating season of 1918 only.

We believe that Mr. Fowler, as receiver, should be authorized to execute such lease.

**SUPPLEMENTAL ORDER.**

Good cause appearing,

*It is hereby ordered* that William F. Fowler, as receiver of the canal and Irrigation system formerly owned and operated by Sacramento Valley West Side Canal Company be and he is hereby authorized to lease to Princeton-Codora-Glenn Irrigation District for the purposes and substantially on the terms specified in form of lease accompanying letter from Mr. Frank Moody, dated March 22, 1918, that portion of the canal and irrigation system formerly owned and operated by Sacramento Valley West Side Canal Company known as the River Branch canal beginning on the north line of section 43 of the Glenn ranch survey and extending southerly along the River road, a distance of approximately fourteen and one-half ( $14\frac{1}{2}$ ) miles to the south line of the subdivision of the Hubbard ranch.

Within ten days after the execution of such lease, said William F. Fowler, as receiver, shall file herein a certified copy thereof.

Dated at San Francisco, California, this twenty-sixth day of March, 1918.

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Decision No. 5235.

IN THE MATTER OF THE APPLICATION OF CALISTOGA WATER COMPANY AND THE TOWN OF CALISTOGA FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FORMER TO SELL AND CONVEY UNTO THE LATTER, AND THE LATTER TO PURCHASE AND ACQUIRE FROM THE FORMER, ALL OF THE PROPERTY OF THE SAID CALISTOGA WATER COMPANY.

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Application No. 3488.

*Decided March 25, 1918.*

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BY THE COMMISSION.

**ORDER.**

Calistoga Water Company having applied to the Railroad Commission for authority to transfer to the town of Calistoga its public utility water system used in supplying water to the town of Calistoga, said transfer to be made in accordance with the forms of conveyance attached to the application in this proceeding and marked Exhibit "A," in which forms of conveyance the property to be transferred is more particularly described as follows:

All of the following described real property situate in the county of Napa, state of California, and particularly described as follows, to wit:

Commencing at corner "C.H. 25" of the Carne Humana rancho, from which an oak 18 inches in diameter bears south 27 degrees west 18 links distant and a fir 30 inches in diameter bears south 79½ degrees east 54 links distant, running thence south 24¼ degrees west 12.20 chains to a stake from which a double madrone marked B.T. bears south 34 degrees east 12 links distant; thence east 6.32 chains to a stake at W. F. Fisher's (formerly) southwest corner, from which stake a black oak 10 inches in diameter bears south 81¼ degrees west 28 links distant, and thence north 10.00 chains to the point of commencement.

Containing 3.36 acres of land.

Together with all water, water rights, reservations or appurtenances in regard to water, water pipes, rights of way, or other purposes appurtenant to, or connected with said land, or in any way used as a part of, or acquired by reason of the use and maintenance or for the use and maintenance of the water system, reservoir, or pipe lines located upon said lands, or in the town of Calistoga.

Also grant and convey the right of way granted and conveyed by S. W. Collins and Mary A. Collins, his wife, to W. F. Fisher by grant dated March 12, 1886, and recorded in Liber 39 of Deeds at page 408, Napa County Records, together with all rights and privileges granted thereunder.

Also grant and convey the right of way granted and conveyed by G. J. Conner and Nancy Conner, his wife, to W. F. Fisher by grant dated March 12, 1886, and recorded in Liber 39 of Deeds at page 412, Napa County Records, together with all rights and privileges granted thereunder.

Also grant and convey all rights, reservations and privileges reserved and excepted in that certain deed made and executed by W. F. Fisher to E. B. Wooley, dated January 25, 1882, and recorded February 20, 1882, in Liber 29 of Deeds at page 376, Napa County Records.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the rents, issues and profits thereof.

Also, that certain lot, piece or parcel of land situate, lying and being in the county of Napa, state of California, and bounded and particularly described as follows, to wit:

Commencing at a point on the southwestern boundary line of the Carne Humana rancho, distant thereon 1.38 chains south 70½ degrees east from corner "C.H. 25" of the survey of said rancho, running thence north 19½ degrees east 3.47 chains; thence south 70½ degrees east 3.50 chains; thence south 19½ degrees west 3.47 chains to the aforesaid southwestern boundary line of said Carne Humana rancho, and thence northwesterly, along said last-mentioned line, 3.50 chains to the point of commencement.

Containing 1.21 acres and being a portion of said Carne Humana rancho.

Also lot number three in section number two, township eight north, range seven west, M. D. M. Containing 23.36 acres.

Also grant and convey an undivided one-fourth interest in and to that certain piece or parcel of land described as commencing at the southwest corner of the southeast quarter of section thirty-four in township nine north, range seven west, M. D. B. and M., and running thence north 9.32 chains; thence east 11.40 chains to a redwood post set in the ground; thence south  $45\frac{1}{2}$  degrees west 16.20 chains to a stake on the township line, and thence west 2.00 chains to the point of commencement.

Also commencing at a stake on the northeasterly line of the county road leading from Calistoga to Healdsburg, which said stake is distant 9.63 chains south  $53\frac{1}{2}$  degrees east from the intersection of said northeasterly line of said county road with the northwesterly line of the thirty-acre tract of land sold by Mrs. S. Grace Crouch to W. H. Nance by deed dated June 21, 1911, and recorded in Liber 102 of Deeds, page 23, Records of Napa County; running thence from said point of commencement north  $60\frac{1}{2}$  degrees east sixty feet to an iron stake set in the ground from which the center of the casing of a bored well on the land hereby conveyed bears south 24 degrees east 17 $\frac{1}{2}$  feet distant; thence south  $53\frac{1}{2}$  degrees east one hundred and twenty-eight feet; thence north  $82\frac{1}{2}$  degrees west one hundred feet to the point of intersection of the northeasterly line of said county road with the middle of Cyrus Creek, and thence along said line of the county road north  $53\frac{1}{2}$  degrees west sixty-six feet to the point of commencement.

Containing one-seventh of an acre, more or less.

Also the right to lay water pipes across lots one, two and three in section thirty-five of township nine north, range seven west, M. D. B. and M. with the right to maintain and keep the said water pipes in good repair for the purpose of conveying water from the canyon above and west of said premises unto the land and premises of one John Cyrus, and being the same right conveyed to John Cyrus by J. S. Cooley *et ux.*, by instrument dated March 29, 1882, and recorded April 6, 1882 in Liber 31 of Deeds, at page 142.

Together with all water, water rights, reservations or appurtenances in regard to water, water pipes, rights of way, or other purposes appurtenant to, or connected with any of the above-described land, or in any way used as a part of, or in connection with the water system now existing and maintained in the town of Calistoga, or acquired for use in connection therewith.

And the town of Calistoga having joined in this application and it appearing that this application should be granted,

*It is hereby ordered* that this application be and the same is hereby granted; provided, that the authority herein granted to transfer said property shall apply only to such property as is transferred on or before June 30, 1918; and provided further, that a certified copy of the deed of conveyance executed in accordance with this order shall be filed with this commission within thirty (30) days after the execution thereof,

and that the consideration given for the property herein authorized to be transferred shall not be taken before this commission or any other public body as a value for rate fixing purposes.

Dated at San Francisco, California, this twenty-seventh day of March, 1918.

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DECISION No. 5236.

IN THE MATTER OF THE APPLICATION OF SOLVANG WATER AND IRRIGATION COMPANY AND MARCUS NIELSEN, H. P. JENSEN AND H. C. HANSEN FOR AUTHORIZATION PERMITTING THE COMPANY TO SELL ITS PROPERTY TO THE LATTER-NAMED PARTIES

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Application No. 3606.

*Decided March 27, 1918.*

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BY THE COMMISSION,

**ORDER.**

Solvang Water and Irrigation Company having applied to the Railroad Commission for authority to transfer to Marcus Nielsen, H. P. Jensen and H. C. Hansen, for the sum of \$3,400.00, all of the real and personal property comprising the water system now used by applicant to supply water in the town of Solvang, said real property being more particularly described as follows:

*First:* Lot b of Lot 15 of the Subdivision of Part of N.E.¼ of SW¼ and part of NW¼ of SE¼, Section 15, Township 6 N. R. 31 W., S.B.M., Santa Barbara Co., Cal., commencing at a 3 4" pipe located on the line between Lots 15 and 16, 216 feet east of the S.W. corner of Lot 15, thence running north 405.7 feet to a 3 4" pipe, thence running east 80 feet to a 3 4" pipe, thence running south 406.8 feet to a 3 4" pipe in the line between Lots 15 and 16, thence running west on the line between Lots 15 and 16 to place of beginning, containing .75 acres, more or less. Map filed and recorded March 12, 1912, in Book 6 of Maps and Surveys, page 57.

*Secondly:* Subdivision b of Lot No. 20 (Twenty) shown on map of "Part of NE¼ of SW¼ and Part of NW¼ of SE¼, Section 15, Township 6 (Six) N. R. 31 W., S.B.M., Santa Barbara Co., Cal." which Map was filed March 12, 1912, in the office of the County Recorder of Santa Barbara County, California, and recorded in Book 6 of Maps and Surveys, page 57, the description being as follows:

Commencing at a 3 4" iron pipe, which is located in the center line of the County Road to Los Olivos, 336.7 feet from SW corner pipe of said Lot 20, and in a direction N. 60° 0' E. from said corner pipe, running, first N. 60° 0' E. 11.6 feet to a 3 4" pipe, second, north 60° 38' W. 344.7 feet to a 3 4" pipe, third, S. 0° 13' W. 11.5 feet to 3 4" pipe, fourth, S. 60° 38' E. 333.2 feet to point of

beginning, containing .08 (eight-one hundredths) acre, more or less, and

*Thirdly:* Part of NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 15, Township 6 (Six) N., R. 31 W., S. B. Meridian, Santa Barbara Co., State of California, commencing at a 3 4" pipe on the east line of NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 15, said pipe being located 750.0 feet south of a 3 4" pipe in the NE corner of NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section, and running thence, first, due south, 414.0 feet to a 3 4" pipe, thence, second, due west 200.0 feet to a 3 4" pipe, thence, third, due north 414.0 feet to a 3 4" pipe, thence, fourth, due east 200.0 feet to place of beginning, containing 1.90 acres;

*Also*, for road purposes, a strip of land 20 feet wide and 750 feet long from above described land (the 1.90 acres) north to the County Road;

*Also*, right of way for a pipe line from west side of above described 1.90 acres of land through NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 15 Township 6 N., R. 31 W., S. B. Meridian, Santa Barbara Co., State of California, westward to the County Road, said pipe line to be covered not less than twelve (12) inches, it being agreed that the parties of the second part will pay reasonable damages if at any time any damage is done to crops along said pipe line.

And the party of the first part further grants to the parties of the second part, their successors, heirs and assigns the privilege of right-of-way on the road now running east-west across the Chris Rasmussen land from the Alamo Pintado Creek to County Road.

Reserving right of way for road purposes over the above described 1.90 acres.

And it appearing to the commission that Marcus Nielsen, H. P. Jensen and H. C. Hansen have joined in the application and that said application should be granted, and that a public hearing is not necessary,

*It is hereby ordered* that this application be and the same is hereby granted upon the following conditions:

1. The authority herein granted to transfer said property shall apply only to such property as is transferred on or before June 30, 1918.
2. A certified copy of the deed of conveyance executed in accordance with this order shall be filed with this commission within ten (10) days after the execution thereof.
3. The consideration given for the property herein authorized to be transferred shall not be taken before this commission or any other public body as a value for rate-fixing purposes.

Dated at San Francisco, California, this twenty-seventh day of March, 1918.



## DECISION No. 5238.

IN THE MATTER OF THE APPLICATION OF JOHN NELSON AND  
FOSTER JONES FOR A CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY TO OPERATE A STAGE LINE SERVICE BETWEEN  
WATSONVILLE AND SANTA CRUZ.

Application No. 2596.

*Decided March 27, 1918.*

BY THE COMMISSION.

## ORDER.

John Nelson and Foster Jones, partners in business under the name of "N and J Stage Line," having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the operation of an automobile stage line as a common carrier of passengers between Watsonville and Santa Cruz and intermediate points, and the commission being fully advised and believing that this is not a matter in which a public hearing is necessary, and that the application should be granted.

The Railroad Commission hereby declares, that public convenience and necessity require the operation by John Nelson and Foster Jones, partners in business under the name of "N and J Stage Line," of an automobile stage line as a common carrier of passengers between Watsonville and Santa Cruz and intermediate points; provided, that this declaration shall not become effective until said Nelson and Jones have procured from the Railroad Commission a supplemental order herein reciting that applicants have filed herein certified copies of permits from the county of Santa Cruz and from the cities of Watsonville and Santa Cruz as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been procured.

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicants herein or is leased by such applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-seventh day of March, 1918.

## DECISION No. 5241.

IN THE MATTER OF THE APPLICATION OF MANTECA WATER WORKS  
FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

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Application No. 3405.*Decided March 27, 1918.*

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A. Baccilieri authorized to transfer his water system in the town of Manteca to the Manteca Water Works and the latter to issue \$35,000.00 par value of its capital stock, \$34,000.00 in exchange for the properties purchased, the balance to qualify directors. Order issued conditioned upon the properties being transferred free of all encumbrances.

*Von Detten & Henry*, for Applicant.

By THE COMMISSION.

**OPINION.**

In this application as amended, A. Baccilieri asks authority to sell his public utility water plant located in Manteca, to Manteca Water Works. The purchasing company joins in the application and asks authority to issue in payment for the properties stock in an amount equal to the appraised value of the water plant.

A public hearing upon the application was held by Examiner Eneell, at Manteca, January 18, 1918.

A general description of the water properties which A. Baccilieri desires to sell to Manteca Water Works is contained in Exhibit "A" attached to the petition herein. A. Baccilieri testified that he had 178 water consumers, that his gross receipts varied from \$240.00 to \$250.00 per month and that his expenses averaged about \$200.00 per month.

Applicants in Exhibit "1" report that E. H. Jeffries has appraised the properties sought to be transferred at \$36,066.86. Mr. M. H. Brinkley, assistant engineer for the Railroad Commission, in his report of March 5, 1918, estimates the reproduction cost new of the properties at \$36,186.00 and the reproduction cost new less depreciation at \$34,856.00. A copy of Mr. Brinkley's report was submitted to applicants. Counsel for applicants in a letter of March 13, 1918, advised the commission that M. H. Brinkley's appraisal was satisfactory and that no objection would be made thereto. We may, therefore, assume for the purposes of this proceeding a reproduction cost new of \$36,186.00 and a reproduction cost new less depreciation, of \$34,856.00.

The testimony in this proceeding shows that A. Baccilieri has incurred for the purpose of constructing his water works an indebtedness of \$18,800.00. Of this indebtedness \$15,000.00 is payable to the San Joaquin Valley Bank, \$3,000.00 to the Pacific Tank Company and

\$800.00 to the Bank of Martinez. The water plant is to be turned over to the new corporation free and clear of all indebtedness, and the order herein will contain a condition to that effect. Upon the receipt of stock in exchange for his water properties, A. Baccilieri will take care of the indebtedness.

Manteca Water Works was organized on or about July 31, 1917. The corporation has an authorized capital stock issue of \$50,000.00, divided into 500 shares of the par value of \$100.00 each. The corporation has incurred no indebtedness. It has issued five shares of stock for the purpose of qualifying directors. As said, it now asks authority to issue stock equal in amount to the appraised value of the water properties which it proposes to acquire. For the purpose of acquiring the water properties of A. Baccilieri, we are of the opinion that Manteca Water Works should be permitted to issue \$34,900.00 par value of stock. In addition, we believe the company should be permitted to issue \$500.00 par value of stock in lieu of a like amount of stock heretofore issued to qualify directors. The testimony shows that the proceeds from the \$500.00 of stock heretofore issued, were used to pay organization expenses.

Manteca Water Works intends to issue the remaining \$14,600.00 of stock from time to time to finance improvements. No testimony was submitted showing the specific purposes for which the company proposed to issue the remaining \$14,600.00 of stock. Inasmuch as the company has not outlined any definite construction program nor offered any evidence showing that it is at this time in need of any additional funds, we do not believe that it is necessary for the commission to authorize the issue of the \$14,600.00 of stock. If hereafter the company should undertake the construction of improvements, the commission will at that time consider the question of the issue of additional stock.

#### ORDER.

A. Baccilieri having applied to the Railroad Commission for authority to sell his water plant located in Manteca to Manteca Water Works and Manteca Water Works having applied to the Railroad Commission for authority to purchase the same and to issue stock as recited in the foregoing opinion, a hearing having been held, and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

*It is hereby ordered* that A. Baccilieri be and he is hereby granted authority to sell his public utility water plant and water properties located in Manteca and described in Exhibit "A," attached to the petition herein, to Manteca Water Works,

*It is hereby further ordered* that Manteca Water Works be and it is hereby granted authority to issue \$35,400.00 par value of its common capital stock upon the following conditions:

1. Stock in the amount of \$34,900.00 shall be delivered to A. Baccilieri in payment for the water properties herein authorized to be sold by him.

2. Stock in the amount of \$500.00 shall be issued by the company in exchange for a like amount of stock heretofore issued for the purpose of qualifying directors.

3. The water properties herein authorized to be sold and transferred by A. Baccilieri to Manteca Water Works shall be sold and transferred free and clear of all encumbrances.

4. The value of the stock herein authorized to be issued shall not be binding upon this commission or any other public body as representing the value of the properties herein authorized to be transferred for rate-making or other purposes.

5. Within thirty days after the execution and delivery of the instrument of conveyance, Manteca Water Works shall file with the Railroad Commission a verified copy.

6. Manteca Water Works shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month, make verified reports to the Railroad Commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made part of this order.

7. The authority herein given to convey property and issue stock shall apply only to such instrument of conveyance as has been executed and delivered and to such stock as shall have been issued on or before June 30, 1918.

Dated at San Francisco, California, this twenty-seventh day of March, 1918.

## DECISION No. 5242.

IN THE MATTER OF THE APPLICATION OF RIALTO LIGHT, POWER AND WATER COMPANY AND OF THE SOUTHERN SIERRAS POWER COMPANY FOR AN ORDER OR ORDERS AUTHORIZING THE SALE AND TRANSFER BY SAID RIALTO LIGHT, POWER AND WATER COMPANY TO THE SAID THE SOUTHERN SIERRAS POWER COMPANY OF THE PROPERTY, ASSETS AND BUSINESS OF THE RIALTO LIGHT, POWER AND WATER COMPANY, A PUBLIC UTILITY OPERATING IN AND ADJACENT TO THE CITY OF RIALTO, SAN BERNARDINO COUNTY, STATE OF CALIFORNIA.

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Application No. 3476.

*Decided March 27, 1918.*

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Rialto company authorized to transfer its properties to the Southern Sierras company for the sum of \$25,794.42, provided that the bookkeeping entries proposed to be made by the Southern Sierras company with reference to the properties to be purchased be first approved by the commission and that stipulations be filed by the purchaser agreeing that no value shall hereafter be claimed for the franchise acquired in excess of the actual amount paid the city by the original grantee and that the price paid for the properties shall not hereafter be urged as a basis of value for rate-fixing or other purposes.

*I. B. Potter, Charles F. Potter and E. B. Criddle, for Applicants.*

BY THE COMMISSION.

**OPINION.**

Rialto Light, Power and Water Company in its amended application asks authority to sell to The Southern Sierras Power Company for \$25,794.42 its properties described in Exhibit "D" attached to the original petition herein. The purchasing company joins in the application. The properties are to be transferred as of December 31, 1917. To the selling price is to be added the cost of any assets that may be acquired between December 31, 1917, and the date on which the Railroad Commission formally approves the sale of the properties, less such current liabilities as may be incurred within the same period.

A hearing was held on this application before Examiner Encell at Los Angeles on February 21, 1918.

Rialto Light, Power and Water Company was organized on or about October 7, 1907. The company has an authorized capital stock issue of \$10,000.00 divided into 400 shares of \$25.00 each. All of the stock is reported as outstanding. With the exception of the directors' qualifying shares, the stock is held by The Sierras Construction Company, a corporation, controlled by the same financial interests which control The Southern Sierras Power Company.

In the amended petition herein, Rialto Light, Power and Water Company's balance sheet as of December 31, 1917, shows the following:

<i>Assets.</i>	
Property .....	\$22,335 52
Property and equipment 1/1/13 .....	\$10,598 14
Additions since 12/31/12 .....	11,737 38
Cash on hand and in banks .....	328 78
Accounts receivable .....	506 54
Notes receivable .....	22 09
Materials and supplies .....	952 38
Unfinished job orders .....	270 15
Unamortized discount on stock .....	1,000 00
Total assets .....	\$25,415 46
<i>Liabilities.</i>	
Capital stock .....	\$10,000 00
Current liabilities .....	6,139 76
Taxes accrued .....	\$248 85
Vouchers payable .....	354 64
Consumers deposits .....	679 29
Miscellaneous .....	4,856 98
Due The Southern Sierras Power Company .....	839 31
Reserve for accrued depreciation .....	1,200 00
Surplus .....	7,236 39
Total liabilities .....	\$25,415 46

The Southern Sierras Power Company, as said above, agrees to pay \$25,794.42 for the properties of the Rialto Light, Power and Water Company as of December 31, 1917. It will assume the payment of current indebtedness amounting to \$6,979.07, leaving a balance of \$18,815.35 to be paid in cash. This purchase price is not based upon the original cost of the properties, but upon an appraisal of the properties by Halbert P. Gillette. Mr. Gillette in his appraisal estimates the reproduction cost of the properties as of March 31, 1914, at \$19,155.00, and the reproduction cost less depreciation at \$16,749.00. In arriving at the latter figure, Mr. Gillette calculates the depreciation on a 5 per cent sinking fund basis. Exclusive of cash and deposits, materials and supplies and development costs, Mr. Gillette estimates the reproduction cost new of the properties less depreciation as of March 31, 1914, at \$14,133.00. In an exhibit attached to the amended petition herein, the Rialto company reports that subsequent to March 31, 1914, it has expended for additions and betterments \$8,448.48.

The proposed purchase price of \$25,794.42 includes \$1,134.00 said to represent development costs up to March 31, 1914. H. P. Gillette, in calculating the development cost, allows a 10 per cent return. No claim is made for any development costs subsequent to March 31, 1914. The testimony shows that Rialto Light, Power and Water Company in 1912 paid \$1,500.00 dividends on its \$10,000.00 of outstanding stock, while in 1915 it paid \$5,000.00 in dividends. In addition to these divi-

dend payments, the company on December 31, 1917, reported a reserve for accrued depreciation amounting to \$1,200.00 and an accumulated surplus of \$7,236.39. Apparently both the reserve and the surplus have been invested in property.

We do not believe it is necessary for the commission in this proceeding to decide what amount, if any, should be allowed for development cost. This application involves neither the issue of securities nor the fixing of rates. It involves the transfer of the properties of Rialto Light, Power and Water Company to The Southern Sierras Power Company. Both the vendor and vendee are in the final analysis controlled by the same interests. The vendor has agreed to sell and the vendee to purchase the properties at \$25,794.42. While the commission is willing to authorize the transfer of the properties at that price, it should be distinctly understood that in doing so, the commission in no way passes either on the amount or the propriety of a development cost. Moreover, while the commission is willing to authorize the transfer of the properties, it does not follow from the authority herein granted that the transfer price is either a proper capital charge or a proper basis on which to predicate rates.

The testimony in this proceeding shows that the rates now charged by the Rialto Light, Power and Water Company differ somewhat from the rates of The Southern Sierras Power Company. The purchasing company proposes to put into effect its regular rates in so far as this can be done without raising any rates.

It appears that the Rialto Light, Power and Water Company is operating under a 50-year franchise granted by the city of Rialto. It is the intention of The Southern Sierras Power Company to continue operations under this franchise. In view of this situation, we believe that the purchasing company should file with the Railroad Commission a copy of the franchise together with a stipulation duly authorized by its board of directors in which it agrees that neither it, its successors or assigns will ever claim before the Railroad Commission or any other public body a value for said franchise in excess of the amount actually expended by the Rialto Company in acquiring the franchise and the rights and privileges granted thereby.

Rialto Light, Power and Water Company and The Southern Sierras Power Company having applied to the Railroad Commission for an order authorizing the sale and transfer of properties referred to in the foregoing opinion, a hearing having been held and the commission being of the opinion that this application should be granted,

*It is hereby ordered* that Rialto Light, Power and Water Company be and it is hereby granted authority to sell to The Southern Sierras

Power Company for the consideration which is specified in the opinion which precedes this order, all property of whatever character owned or controlled by said Rialto Light, Power and Water Company.

The authority herein granted is upon the following conditions and not otherwise:

1. Before the authority herein granted to transfer properties shall become effective, The Southern Sierras Power Company shall file with the Railroad Commission a stipulation duly authorized by its board of directors, in which stipulation The Southern Sierras Power Company agrees that neither it, its successors or assigns will ever claim before the Railroad Commission or other public body a value for the franchise to be acquired from the Rialto Light, Power and Water Company pursuant to the authority herein granted in excess of the amount actually paid to the city of Rialto as the consideration for the grant of such franchise, which amount shall be set forth in the stipulation and shall have obtained from the Railroad Commission a supplemental order declaring that such stipulation in form satisfactory has been filed with the Railroad Commission.

2. The authority herein granted shall not become effective until the Railroad Commission has approved the bookkeeping entries relative to the transfer of the properties herein authorized to be sold.

3. The Southern Sierras Power Company shall file with the Railroad Commission a copy of the franchise acquired from the Rialto Light, Power and Water Company.

4. The price at which The Southern Sierras Power Company is herein authorized to acquire the properties of the Rialto Light, Power and Water Company shall never be urged upon the Railroad Commission, or other public body, as a measure of value on which to base rates, issue securities or for any other purpose.

5. Within thirty days after the transfer of the properties herein authorized, The Southern Sierras Power Company shall file a verified copy of the deed of conveyance.

6. The authority herein granted shall apply only to such property as shall be transferred on or before September 1, 1918.

Dated at San Francisco, California, this twenty-seventh day of March, 1918.



## DECISION No. 5249.

IN THE MATTER OF THE APPLICATION OF H. W. SPURR FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE MOTOR TRUCK FREIGHT SERVICE BETWEEN STOCK-  
TON AND FRESNO.

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Application No. 3517.

*Decided March 29, 1918.*

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The Railroad Commission will not consider protests of common carriers against the granting of a certificate permitting parties to operate auto trucks for short haul freight when the only contention advanced is that as the government is now operating the carriers, interference with their revenues should not be allowed, it being shown that the government has frequently directed attention to the encouragement that should be given toward the diversion of merchandise and package freight to motor trucks.

Applicants granted a certificate permitting the operation of a line of motor trucks for the transportation of freight between Stockton and Fresno and intermediate points, provided they first secure all necessary permits from the local authorities of the territory through which they propose to operate.

*Clary & Loutill*, for Applicant.

*Geo. D. Squires* and *J. H. Mulchay*, for Southern Pacific Company,  
Protestant.

*G. H. Baker* and *J. W. Walker*, for Atchison, Topeka and Santa Fe  
Railway Company, Protestant.

*N. K. Lockwood* and *J. W. Pearce*, for Wells Fargo and Company  
Express, Protestant.

*GORDON*, *Commissioner*.

## OPINION.

H. W. Spurr applies for a certificate that public convenience and necessity require the operation by him of an automobile truck service as a common carrier of freight between Stockton and Fresno and intermediate points.

A public hearing was held at Stockton on March 11, 1918, the matter was duly submitted and is now ready for decision.

At the hearing on this application the petition was amended to include C. P. Stanbrough and A. A. Jordan who desire to enter into a partnership agreement with the original petitioner, H. W. Spurr, and to operate the proposed service under the name of Stockton-Fresno Motor Truck Company.

Applicants propose to operate a service daily except Sunday between Stockton and Turlock, a service of three trips per week between Stockton, Merced, Madera and Fresno serving only these stations, and a service of three trips per week between Stockton and Madera serving Turlock and all intermediate stations to Madera.

The equipment proposed for this service will consist of 3 thirty-horsepower Republic trucks with carrying capacity of two tons each, also 3 trailers with carrying capacity of two tons each. Contracts have been executed for this equipment on a deferred payment plan and the sum of \$1,800.00 has been paid as the initial payment.

Schedules of rates to be charged for the transportation of freight and packages were filed as Exhibit "A" with the application in this proceeding.

The applicants have had no previous experience in the operation of automobile truck lines as common carriers, but have performed some service in the hauling of grain and farm products in the territory around Stockton and between Stockton and Turlock. Some investigation has been made as to the prospective business in the territory between Stockton and Modesto and applicants have received encouragement from merchants and others regarding patronage that would be furnished if the line was inaugurated.

Merchants located in Stockton testified that the proposed service would be an advantage and that the delays incident to the movement of local freight between Stockton and the points in the San Joaquin Valley to be served by the proposed line, which have occurred during the period of congestion on the rail lines, would be eliminated. The proposed service would care for the demand existing for prompt delivery from wholesalers, it being stated that due to the present high prices of commodities that small quantities of merchandise were purchased and that prompt delivery was an essential factor in the transaction of business.

Witnesses in favor of applicant testified that goods shipped by rail had been returned on account of delay in delivery by reason of arrival at destination too late for use by the consignee. Also that the proposed service would permit the handling of certain classes of commodities with less liability of damage than by the present rail routes.

The rates proposed by the applicants include pick-up and delivery within the incorporated limits of all cities on the proposed route and such plan provides a distinct advantage to the patrons of the proposed route over the service at present available via the rail lines. The rates proposed exceed those in effect as class rates by the rail lines by an amount of eighty cents per ton, but the proposed rates include pick-up and delivery at all points within the limits of incorporated cities along the route. The rates of Wells Fargo and Company, which serve the same territory, are approximately twice those proposed by the applicants, and while the Wells Fargo and Company's rates include pick-up and delivery such privilege is confined to certain defined limits whereas applicant proposes to extend such privilege to serve the entire community in each incorporated city.

No permits have been secured by applicants from the governing bodies of the various political subdivisions through which the proposed route will pass, as required by section 3 of chapter 213, laws of 1917, but it is understood that such permits are to be applied for.

The Southern Pacific Company, The Atchison, Topeka, and Santa Fe Railway Company, and Wells Fargo and Company, appeared and protested against the granting of the petition for certificate of public convenience and necessity.

The passenger train service now rendered by the railroads upon which express is carried in the territory sought to be served by the applicants herein is as follows:

	Fresno to Stockton	Stockton to Fresno	Stockton to Modesto	Modesto to Stockton
Southern Pacific Company—				
(Via east side of San Joaquin Valley)...	4	3		
(Via west side of San Joaquin Valley)...	1	2		
Atchison, Topeka and Santa Fe Ry. Co....	5	5		
Tidewater Southern Railway.....			8	8
Totals .....	10	10	8	8

Freight service for less than carload quantities is cared for by merchandise cars which operate daily on all three railroads between the points proposed to be served by applicants.

Representatives of the rail carriers object to the granting of the certificate sought by applicants on the basis that the railroads are now being operated by the United States Government and that any interference with the revenue of the carriers should not be allowed. The service proposed by applicants will furnish direct communication between shippers and consignees as merchandise will be picked up at the point of origin and be delivered at the location of consignee, thereby saving the delay at stations and the necessity for wagon haul either at point of origin or destination. As regards the handling of such merchandise as has heretofore been cared for by express, not only will an amplified pick-up and delivery be provided for the public but same will be furnished at rates which are materially lower than those schedules for service by Wells Fargo and Company.

The federal government has frequently directed attention to the encouragement that should be given toward the diversion of merchandise and package freight to motor trucks. The Council of National Defense has recently passed a resolution in the matter, as follows:

"The Council of National Defense approves the widest possible use of the motor truck as a transportation agency, and requests the state councils of defense and other state authorities to take all necessary steps to facilitate such means of transportation, removing any regulations that tend to restrict and discourage such use."

In this proceeding it appears that not only is the service proposed desirable for the public convenience but that same will be rendered under conditions and rates that are not now available by the service of existing rail transportation companies.

I suggest the following form of order:

**ORDER.**

H. W. Spurr, C. P. Stanbrough and A. A. Jordon, copartners in business, operating under the name of Stockton-Fresno Motor Truck Company, having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of a motor truck line as a common carrier of freight between Stockton and Fresno and intermediate points, a public hearing having been held, the matter having been duly submitted and the commission being fully advised,

The Railroad Commission hereby declares that public convenience and necessity require the operation by H. W. Spurr, C. P. Stanbrough and A. A. Jordon, copartners in business, operating under the name of Stockton-Fresno Motor Truck Company, of a motor truck line as a common carrier of freight between Stockton and Fresno and intermediate points; provided, that this declaration shall not become effective until said Spurr, Stanbrough and Jordon have procured from the Railroad Commission a supplemental order herein reciting that said Spurr, Stanbrough and Jordon have filed herein certified copies of permits from the governing bodies of all political subdivisions through which applicants intend to operate, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges hereby granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been procured.

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicants herein or is leased by such applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-ninth day of March, 1918.

Decision No. 5250.  
IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND  
EASTERN RAILWAY TO ISSUE CERTAIN NOTES.

Application No. 3597.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND  
EASTERN RAILWAY TO ISSUE CERTAIN NOTES.

Application No. 3598.

*Decided March 29, 1918.*

Applicant authorized to issue for renewal purposes, four notes aggregating a face value of \$24,207.38, for a term or terms of not to exceed one year, and to issue and pledge as security for two of such notes, its bonds of the face value of \$38,000.00, provided that the amount of security shall be reduced proportionately as the notes are paid off.

*Jesse H. Steinhart*, for Applicant.

EDGERTON, *Commissioner*.

**OPINION.**

The above-entitled applications were consolidated for hearing and decision.

Applicant asks authority to issue notes for a term of one year or less for the purpose of renewing the following notes:

Payee	Date of note	Term of note	Interest	Face amount of original note	Balance due
United States Steel Products Co.	11/26/17	2/10/18	6%	\$25,000 00	\$16,200 00
International Banking Corp.....	3/30/14	1 day	7%	22,436 25	482 51
International Banking Corp.....	4/30/14	1 day	7%	31,241 80	22,195 02
General Electric Co.....	7/15/14	5 mos.	6%	1,130 00	980 00
General Electric Co.....	7/15/14	90 days	6%	1,314 14	549 85

The issue of the note payable to the United States Steel Products Company is covered by Decision No. 4623, dated September 6, 1917, as amended by Decision No. 5199, dated March 12, 1918. It does not appear necessary at this time to authorize the renewal of this note.

On March 30, 1914, Oakland, Antioch and Eastern Railway issued to the International Banking Corporation a one-day note for \$22,436.25. On April 30, 1914, it issued to the International Banking Corporation a one-day note for \$31,240.80. On the former note the company reports that it has paid \$21,953.74, leaving a balance of \$482.51, while on the latter note it has paid \$9,045.78, leaving a balance of \$22,195.02. The commission has never authorized the issue of these notes. The testimony shows that the proceeds obtained by the company through

the issue of these notes were used for the construction of applicant's line of railway.

Applicant reports that the payment of the notes due the International Banking Corporation is secured by \$50,000.00 face value of bonds. Applicant asks authority to continue the \$50,000.00 of bonds in pledge. I believe that as payments are being made on these notes, the amount of bonds pledged as collateral should be reduced so that at no time shall the face value of the notes be less than approximately 60 per cent of the bonds pledged as collateral to secure the payment thereof. I do not believe that applicant should pledge more than \$38,000.00 of bonds to secure the notes it desires to issue to the International Banking Corporation.

The commission has heretofore authorized the issue of the notes payable to the General Electric Company.

It appears that the granting of this application merely maintains the status quo of applicant.

I herewith submit the following form of order:

#### ORDER.

Oakland, Antioch and Eastern Railway having applied to the Railroad Commission for authority to issue notes and to pledge bonds as collateral to secure the payment of said notes, a hearing having been held and it appearing that the money, property or labor to be procured by the issue of the notes is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Oakland, Antioch and Eastern Railway be and it is hereby granted authority to issue promissory notes in the following amounts, at the following rates of interest and to the following payees:

Payee	Date of Issue	Term of note	Interest	Face amount
International Banking Corporation.....	3/30/14	1 day	7%	\$482.51
International Banking Corporation.....	4/30/14	1 day	7%	22,195.02
General Electric Company.....	7/15/14	5 months	6%	980.00
General Electric Company.....	7/15/14	90 days	6%	549.85

*It is hereby further ordered* that Oakland, Antioch and Eastern Railway be and it is hereby authorized to issue and pledge as collateral thirty-eight (38) of its bonds to secure the payment of the notes to be issued to the International Banking Corporation.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall be made payable on or before March 30, 1919. Applicant may issue and reissue said notes for a term of less than one year, provided that the maturity of any notes issued under the authority herein granted does not extend beyond March 30, 1919.

(2) As the principal of the notes herein authorized to be issued to the International Banking Corporation is paid off, bonds pledged as collateral shall be released in such an amount so that the face value of the notes shall never be less than approximately 60 per cent of the bonds pledged as collateral to secure the payment thereof. The bonds thus released shall be returned to applicant's treasury and thereafter issued only upon order of the Railroad Commission.

(3) Applicant shall file monthly reports as required by the Railroad Commission's General Order No. 24, said order being made a part of this order in so far as the same is applicable.

(4) The authority herein given to issue notes and bonds shall become effective only after applicant has paid the fee specified in section 57 of the Public Utilities Act.

(5) The authority herein granted shall apply only to such bonds and notes as may be issued on or before March 1, 1919.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-ninth day of March, 1918.

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DECISION No. 5254.

IN THE MATTER OF THE APPLICATION OF CORONA GAS AND ELECTRIC LIGHT COMPANY, AND OF THE SOUTHERN SIERRAS POWER COMPANY FOR AN ORDER OR ORDERS AUTHORIZING THE SALE AND TRANSFER BY SAID CORONA GAS AND ELECTRIC LIGHT COMPANY TO THE SAID THE SOUTHERN SIERRAS POWER COMPANY OF THE PROPERTY, ASSETS AND BUSINESS OF THE CORONA GAS AND ELECTRIC LIGHT COMPANY, A PUBLIC UTILITY OPERATING IN AND ADJACENT TO THE CITY OF CORONA, RIVERSIDE COUNTY, CALIFORNIA.

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Application No. 3474.

*Decided March 29, 1918.*

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In authorizing the transfer of the properties of one public utility to another the commission does not deem it necessary to pass upon the propriety of including in the value of the properties transferred, a stated amount under the head of

development expense. It does, however, require that the bookkeeping entries of the purchasing company, with reference to properties acquired, be first approved by the commission and a stipulation filed to the effect that the price paid shall not hereafter be urged as a basis of value in a rate fixing or other investigation. Corona company authorized to transfer its properties to the Southern Sierras company at a valuation of \$140,951.37 as of December 31, 1917, and the latter company authorized to execute an indenture by which it agrees to assume payment of the \$58,500.00 face value of outstanding bonds of the selling company.

*I. B. Potter, Charles F. Potter and E. B. Criddle, for Applicants.*

BY THE COMMISSION:

#### OPINION.

Corona Gas and Electric Light Company in its amended application asks authority to sell to The Southern Sierras Power Company for \$140,951.37 all of its properties, assets and business. The purchasing company joins in the application. The properties are to be transferred as of December 31, 1917. To the selling price is to be added the cost of any assets that may be acquired between December 31, 1917, and the date on which the Railroad Commission formally approves the sale of the properties less such current liabilities as may be incurred within the same period. Reference is here made to Exhibit "C," attached to the original petition, for a general description of the tangible properties to be transferred.

The Southern Sierras Power Company, in addition to asking authority to purchase the properties of the Corona Gas and Electric Light Company, asks authority to execute an indenture whereby it agrees to assume the payment of the \$58,500.00 of outstanding bonds of the selling corporation. A copy of the proposed indenture is attached to the supplemental petition herein.

A hearing was held on this application before Examiner Encell at Los Angeles on February 21, 1918.

Corona Gas and Electric Light Company was organized on or about July 10, 1903. The company has an authorized capital stock of \$50,000.00 divided into 500 shares of the par value of \$100.00 each. All of the stock is reported as outstanding. With the exception of the directors' qualifying shares, the stock is owned by the Nevada-California Electric Corporation.

In the amended petition herein, Corona Gas and Electric Light Company's balance sheet as of December 31, 1917, shows the following:

<i>Assets.</i>		
Properties .....		\$99,425 66
Property and equipment, 1-1-13 .....	\$72,042 01	
Additions since 12-31-12 .....	27,383 65	
Cash on hand and in bank .....		36,136 43
Accounts receivable .....		14,506 00
Consumers and agents .....	82,237 15	
Miscellaneous .....	12,268 94	



Interest and dividends receivable .....	\$898 02
Materials and supplies .....	3,503 27
Unfinished job orders .....	14 68
Prepaid insurance .....	31 69
Undistributed amounts .....	65 50
Unamortized discount on securities and expense .....	6,135 96

Total assets ..... \$160,717 30

*Liabilities.*

Capital stock .....	\$50,000 00
First mortgage 6 per cent gold bonds .....	58,500 00
Current liabilities .....	3,751 50
Vouchers payable .....	\$308 40
Consumers deposits .....	308 08
Taxes accrued .....	1,380 02
Accruing interest on first mortgage bonds .....	1,755 00
Due The Southern Sierras Power Company .....	594 80
Reserve for accrued depreciation .....	12,702 28
Reserve for injuries and damages .....	356 54
Reserve for automobile expense .....	47 99
Surplus .....	34,764 19

Total liabilities ..... \$160,717 30

The Southern Sierras Power Company, as said above, agrees to pay \$140,951.37 for the properties of the Corona Gas and Electric Light Company as of December 31, 1917. It will assume the payment of bonded and current indebtedness amounting to \$62,251.50, leaving a balance of \$78,699.87 to be paid in cash.

On May 27, 1916, the Railroad Commission authorized the Corona Gas and Electric Light Company to issue at not less than 90 per cent of their face value plus accrued interest \$58,500.00 of first mortgage 6 per cent 50-year bonds. The order of the commission provided that of the proceeds from the sale of the bonds the company might use \$18,849.66 to liquidate indebtedness due the Nevada-California Power Company and \$422.18 to pay indebtedness due The Southern Sierras Power Company. The order of the commission further provided that the balance, \$33,339.05, was to be used to reimburse the company's treasury for moneys actually expended from income for additions, betterments and extensions within three years and ten months prior to November 1, 1915, provided that the \$33,339.05 be held in a special fund by the company and used only for working capital or to defray the cost of future additions, betterments and extensions properly chargeable to capital account. On December 28, 1917, the commission modified its order of May 27, 1916, so as to permit Corona Gas and Electric Light Company to loan to The Southern Sierras Power Company \$33,000.00 of the proceeds obtained from the sale of its bonds. The \$36,136.43 of cash on hand and in bank reported by the Corona Gas and Electric Light Company on December 31, 1917, includes the \$33,339.05 obtained from

the sale of the bonds and with which the commission authorized the company, subject to certain conditions, to reimburse its treasury.

In the indenture which The Southern Sierras Power Company proposes to execute, it agrees to assume the payment of the \$58,500.00 of outstanding bonds of Corona Gas and Electric Light Company; to observe all of the terms and conditions of the mortgage or deed of trust securing the payment of the \$58,500.00 of bonds, and further agrees that it will at all times keep separable and distinguishable from other properties which may belong to The Southern Sierras Power Company the properties acquired from the Corona Gas and Electric Light Company. The bonds of the Corona Gas and Electric Light Company mature July 1, 1965. All of the bonds are owned by the Nevada-California Electric Corporation, which through stock ownership controls The Southern Sierras Power Company. In a letter of March 20, 1918, Charles F. Potter informed the commission that the outstanding bonds of the Corona Gas and Electric Light Company would be paid off at the next interest payment date. We believe that this is the proper course to pursue in this matter and expect that the bonds will be paid off at the next interest payment date.

The Railroad Commission's engineers estimated the reproduction cost new of the tangible properties of the Corona Gas and Electric Light Company as of December 31, 1915, at \$75,581.08 and the reproduction cost new less depreciation at \$62,179.65. These figures do not include stores or supplies and cash and deposits, nor has any allowance been made for intangibles. In its decision of May 27, 1916, the commission calls attention to the fact that Halbert P. Gillette of New York estimated the reproduction cost new of the fixed capital of Corona Gas and Electric Light Company as of December 31, 1914, at \$69,184.00. During the year 1915, the company reported additions to fixed capital amounting to \$4,097.53, which will increase the reproduction cost of its physical properties to \$73,281.53 as compared with the cost found by the commission's engineers of \$75,581.08. Using the Gillette appraisal as a basis, the company in its amended petition herein reports the reproduction cost of its fixed capital as of December 31, 1917, at \$75,307.19. In addition, the company reports:

Miscellaneous investments .....	\$3,122 00
Materials and supplies .....	3,503 27
Unamortized discount .....	3,459 00
Development cost at 8 per cent.....	18,132 00
Making a grand total of.....	\$103,523 46

From this total the company would deduct \$14,159.00 allowed for depreciation, leaving a balance of \$89,364.46.

In arriving at a development cost of \$18,132.00, Corona Gas and Electric Light Company assumes that 8 per cent represents a fair return upon its properties. We do not believe that it is necessary for the commission in this proceeding to decide what amount, if any, should be allowed for development cost. This application involves neither the issue of securities nor the fixing of rates. It involves the transfer of the properties of Corona Gas and Electric Light Company to The Southern Sierras Power Company. Both the vendor and the vendee appear to be controlled by the Nevada-California Electric Corporation. The vendor has agreed to sell and the vendee to purchase the properties at \$140,951.37. While the commission is willing to authorize the transfer of the properties at that price, it should be distinctly understood that in so doing, the commission in no way passes either on the amount or the propriety of a development cost. Moreover, while the commission is willing to authorize the transfer of the properties, it does not follow from the authority herein granted that the transfer price is either a proper capital charge or a proper basis on which to predicate rates.

The testimony in this proceeding shows that the rates now charged by the Corona Gas and Electric Light Company differ in some respects from The Southern Sierras Power Company rates charged in the Corona territory. The purchasing company does not intend to increase any of the rates now paid by the consumers of the Corona Gas and Electric Light Company by reason of the transfer of the properties. So far as it can be done without any increase in rates, the purchasing company proposes to put into effect its regular rate schedules.

It appears that The Southern Sierras Power Company proposes to acquire and operate under the franchises now owned by the Corona Gas and Electric Light Company. We believe that it should file with the commission a copy of each any every franchise which it will acquire from the Corona Gas and Electric Light Company, together with a stipulation duly authorized by its board of directors, in which it agrees that neither it, its successors or assigns will ever claim before the Railroad Commission, or any other public body, a value for said franchise or franchises in excess of the amount actually expended by the vendor in acquiring the same.

#### ORDER.

Corona Gas and Electric Light Company and The Southern Sierras Power Company having applied to the Railroad Commission for an order authorizing the sale and transfer of properties referred to in the foregoing opinion, a hearing having been held and the commission being of the opinion that this application should be granted,

*It is hereby ordered* that Corona Gas and Electric Light Company be and it is hereby granted authority to sell to The Southern Sierras Power

Company for the consideration which is specified in the opinion which precedes this order all property of whatever character owned or controlled by said Corona Gas and Electric Light Company.

*It is hereby further ordered* that The Southern Sierras Power Company be and it is hereby granted authority to execute an indenture substantially in the same form as the indenture attached to the supplemental petition herein filed on March 13, 1918.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) Before the authority herein granted to transfer properties shall become effective, The Southern Sierras Power Company shall file with the Railroad Commission a stipulation duly authorized by its board of directors, in which stipulation The Southern Sierras Power Company agrees that neither it, its successors or assigns will ever claim before the Railroad Commission, or other public body, a value for the franchise or franchises to be acquired from the Corona Gas and Electric Light Company, pursuant to the authority herein granted, in excess of the amount actually paid to the city of Corona as the consideration for the grant of such franchise or franchises, which amount shall be set forth in the stipulation, and shall have obtained from the Railroad Commission a supplemental order declaring that such stipulation in form satisfactory has been filed with the Railroad Commission.

(2) The authority herein granted shall not become effective until the Railroad Commission has approved the bookkeeping entries relative to the transfer of the properties herein authorized to be sold.

(3) The Southern Sierras Power Company shall file with the Railroad Commission a copy of each and every franchise acquired from the Corona Gas and Electric Light Company.

(4) The price at which The Southern Sierras Power Company is authorized to acquire the properties of the Corona Gas and Electric Light Company shall never be urged upon the Railroad Commission, or other public body, as a measure of value on which to base rates, issue securities or for any other purpose.

(5) Within thirty days after the transfer of the properties herein authorized, The Southern Sierras Power Company shall file a verified copy of the deed of conveyance.

(6) The authority herein granted shall apply only to such property as shall be transferred on or before September 1, 1918.

Dated at San Francisco, California, this twenty-ninth day of March, 1918.

## DECISION No. 5255.

IN THE MATTER OF THE APPLICATION OF BISHOP LIGHT AND POWER COMPANY AND OF THE SOUTHERN SIERRAS POWER COMPANY FOR AN ORDER OR ORDERS AUTHORIZING THE SALE AND TRANSFER BY THE SAID BISHOP LIGHT AND POWER COMPANY TO THE SAID THE SOUTHERN SIERRAS POWER COMPANY OF THE PROPERTY, ASSETS AND BUSINESS OF THE BISHOP LIGHT AND POWER COMPANY, A PUBLIC UTILITY, OPERATING IN AND ADJACENT TO THE CITY OF BISHOP, INYO COUNTY, STATE OF CALIFORNIA.

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Application No. 3475.

*Decided March 29, 1918.*

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Bishop company authorized to transfer its properties to the Southern Sierras company for the sum of \$64,108.85 and the latter company to execute an indenture whereby it agrees to assume the payment of \$4,500.00 face value of outstanding bonds of the selling company. Transfer conditioned upon the approval by the commission of the bookkeeping entries made by the purchaser in connection with the properties acquired and the filing of stipulations to the effect that the amount paid shall not be urged as a basis of value in a rate-fixing or other investigation, and that no value shall ever be claimed for any franchise acquired in excess of the actual original cost thereof as paid to the grantor.

*I. B. Potter, Charles F. Potter, and E. B. Criddle, for Applicants.*

BY THE COMMISSION.

OPINION.

Bishop Light and Power Company in its amended application asks authority to sell to The Southern Sierras Power Company for \$64,108.85, all of its property, assets and business. The purchasing company joins in the application and asks authority to execute a trust indenture wherein and whereby it agrees to assume the payment of \$4,500.00 of outstanding bonds of Bishop Light and Power Company.

Reference is here made to Exhibit "C" attached to the original petition herein for a general description of the tangible properties to be transferred.

The properties are to be transferred as of December 31, 1917. To the selling price is to be added the cost of any assets that may be acquired between December 31, 1917, and the date on which the Railroad Commission formally approves the sale of the properties, less such current liabilities as may be incurred within the same period.

A hearing was held on this application before Examiner Encell at Los Angeles on February 21, 1918.

Bishop Light and Power Company was organized on or before April 11, 1902. The company has an authorized capital stock of \$20,000.00, of which \$15,600.00 is outstanding. All of the outstanding stock, except shares necessary to qualify directors, is owned by the Nevada-California Electric Corporation.

In the amended petition herein Bishop Light and Power Company reports assets and liabilities as of December 31, 1917, as follows:

<i>Assets.</i>	
Property -----	\$37,593 44
Property and equipment 1/1/13 -----	\$32,294 53
Additions since 12/31/12 -----	5,298 91
Cash on hand and in banks -----	4,772 04
Notes receivable -----	174 72
Due from Nevada-California Power Company -----	2 94
Accounts receivable -----	12,334 54
Consumers and agents -----	\$1,975 90
Miscellaneous -----	10,358 64
Material and supplies -----	6,674 53
Unfinished job orders -----	21 03
Prepaid insurance -----	53 05
Unamortized discount on securities and expenses -----	712 27
Total assets -----	\$62,338 56

<i>Liabilities.</i>	
Capital stock outstanding -----	\$15,600 00
First mortgage 6 per cent gold bonds outstanding -----	4,500 00
Current liabilities -----	1,321 96
Vouchers payable -----	\$498 18
Consumers deposits -----	223 75
Taxes accrued -----	465 03
Accrued interest on first mortgage bonds -----	135 00
Due to The Southern Sierras Power Company -----	983 20
Due to the Interstate Telegraph Company -----	586 70
Reserved for accrued depreciation -----	6,933 44
Reserved for injuries and damages -----	1,015 00
Corporate surplus -----	31,398 26
Total liabilities -----	\$62,338 56

The Southern Sierras Power Company agrees to pay for the properties of Bishop Light and Power Company \$64,108.85. It further agrees to assume the payment of \$4,500.00 of outstanding bonds and \$2,891.86 of current liabilities, leaving a balance of \$56,716.99 of the purchase price to be paid in cash.

The purchase price of \$64,108.85 is composed of the following items:

Present depreciated value of property, December 31, 1914 (exclusive of cash and deposits, materials and supplies and development costs) as shown by H. P. Gillette appraisal -----	\$30,205 00
Cash advances to December 31, 1917 -----	4,071 00
Development cost -----	5,800 00
Materials and supplies on December 31, 1917, as shown by the books of the Bishop Light and Power Company -----	6,674 53
Cash and deposits -----	4,772 04
Notes receivable -----	174 72
Accounts receivable -----	11,949 90
Interest and dividends receivable -----	408 61
Prepaid insurance -----	53 05
Total -----	\$64,108 85

33 11130

It will be noted that the purchase price includes a development cost amounting to \$5,800.00. We do not believe that it is necessary for the commission in this proceeding to decide what amount, if any, should be allowed for development cost. This application involves neither the issue of securities nor the fixing of rates. Bishop Light and Power Company asks authority to transfer its properties to The Southern Sierras Power Company. Both the vendor and vendee are controlled by the Nevada-California Electric Corporation. The vendor has agreed to sell, and the vendee to purchase, the property for \$64,108.85. While the commission is willing to authorize the transfer of the properties at that price it should be distinctly understood that in so doing the commission in no way passes either upon the amount or the propriety of a development cost in this case. Moreover, while the commission is willing to authorize the transfer of the properties it does not follow from the authority herein granted that the purchase price is either a proper capital charge or a proper basis upon which to predicate rates.

On May 19, 1916, the Railroad Commission authorized Bishop Light and Power Company to execute a mortgage and deed of trust and issue thereunder \$4,500.00 of 6 per cent bonds, payable July 1, 1965. These bonds have been issued and are now outstanding. As said, attached to the supplemental petition herein is a copy of a proposed trust indenture wherein and whereby The Southern Sierras Power Company agrees to assume the payment of the \$4,500.00 of outstanding Bishop Light and Power Company bonds, to observe all of the terms and conditions of the mortgage or deed of trust securing the payment of said bonds and to at all times keep separable and distinguishable from the properties of The Southern Sierras Power Company the properties of the Bishop Light and Power Company acquired pursuant to the authority herein granted. In a letter of March 20, 1918, Charles F. Potter informs the commission that it is the intention of The Southern Sierras Power Company, if this application is granted, to retire and pay off the \$4,500.00 of outstanding bonds of Bishop Light and Power Company upon the next interest payment date. The commission expects the company to do so and to cause the mortgage or deed of trust of Bishop Light and Power Company to be canceled.

The testimony shows that the rates of the Bishop Light and Power Company are now identical with the rates of The Southern Sierras Power Company and that therefore the transfer of these properties will necessitate no change in the rate schedules.

The Southern Sierras Power Company proposes to acquire and operate under the franchise now owned by the Bishop Light and Power Company. We believe that the purchasing company should file with the Railroad Commission a copy of the franchise which it will acquire from the selling company, together with a stipulation duly authorized

by its board of directors in which it agrees, its successors or assigns, will never claim before the Railroad Commission or any other public body a value for said franchise in excess of the amount actually expended by Bishop Light and Power Company in acquiring said franchise and the rights and privileges granted thereby.

#### ORDER.

Bishop Light and Power Company and The Southern Sierras Power Company having applied to the Railroad Commission for an order authorizing the sale and transfer of properties referred to in the foregoing opinion, a hearing having been held, and the commission being of the opinion that this application should be granted,

*It is hereby ordered* that Bishop Light and Power Company be and it is hereby granted authority to sell to The Southern Sierras Power Company for the consideration which is specified in the opinion which precedes this order, all property of whatever character owned or controlled by said Bishop Light and Power Company.

*It is hereby further ordered* that The Southern Sierras Power Company be and it is hereby granted authority to execute a trust indenture substantially in the same form as the trust indenture attached to the supplemental petition herein, filed on March 13, 1918.

The authority herein granted is upon the following conditions and not otherwise:

1. Before the authority herein granted to transfer the properties shall have become effective The Southern Sierras Power Company shall file with the Railroad Commission a stipulation duly authorized by its board of directors in which stipulation The Southern Sierras Power Company agrees that neither it, its successors or assigns, will ever claim before the Railroad Commission or other public body a value for the franchise to be acquired from the Bishop Light and Power Company pursuant to the authority herein granted, in excess of the amount actually paid to the county of Inyo, as a consideration for the grant of such franchise, which amount shall be set forth in the stipulation, and shall have obtained from the Railroad Commission a supplemental order declaring that such stipulation in form satisfactory has been filed with the Railroad Commission.

2. The authority herein granted shall not become effective until the Railroad Commission has approved the bookkeeping entries relative to the transfer of the properties herein authorized to be sold.

3. The Southern Sierras Power Company shall file with the Railroad Commission a copy of the franchise acquired from the Bishop Light and Power Company.

4. The price at which The Southern Sierras Power Company is herein authorized to acquire the properties of the Bishop Light and Power



Company, shall never be urged upon the Railroad Commission or other public body as a measure of value on which to base rates, issue securities or for any other purpose.

5. Within thirty days after the transfer of the properties herein authorized The Southern Sierras Power Company shall file a verified copy of the deed of conveyance.

6. The authority herein granted shall apply only to such property as shall be transferred on or before September 1, 1918.

Dated at San Francisco, California, this twenty-ninth day of March, 1918.

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DECISION No. 5256.

IN THE MATTER OF THE APPLICATION OF GEORGE B. MITH FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE SERVICE BETWEEN RED BLUFF AND EUREKA.

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Application No. 3540.

*Decided March 29, 1918.*

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When an automobile transportation company gives adequate and reliable service the commission will be slow to permit another company to enter into competition with it, however, when the service of the existing company is irregular and unsatisfactory the commission will permit competition irrespective of whether or not it is shown that there is only sufficient traffic to support one company.

Applicant granted a certificate permitting the operation of an automobile transportation line for the transportation of passengers and express matter between Red Bluff and Eureka and intermediate points, provided all necessary permits are first secured from the local authorities of the territory through which he proposes to operate.

*A. H. Ludeman*, for Applicant.

*Joseph K. Smith*, for Redwood Route Auto Stage.

*THELEN*, *Commissioner*.

OPINION.

George B. Mith applies for a certificate that public convenience and necessity require the operation by him of an automobile passenger and express package service between Red Bluff, Tehama County, and Eureka, Humboldt County, and intermediate points.

Public hearings were held in Red Bluff on March 8, 1918, and in San Francisco on March 21, 1918.

Petitioner proposes to operate an auto stage service for the transportation of passengers and express packages between Red Bluff, Eureka, and intermediate points, the service to continue triweekly, on Mondays, Wednesdays and Fridays, from April 15 to October 31.

The localities from, to and through which petitioner proposes to operate are Red Bluff, Left Fork, Rosewood, Bee Gum, Wildwood,

Peanut, Auto Rest, Low Gap, Mad River, Cobbs, Dinsmores, McClellan Hill, Bridgeville, Strong's Station, Carlotta, Hydesville, Alton, Fortuna, Fern Bridge, Loleta and Eureka.

The fares which petitioner proposes to charge are set forth in Exhibit "A," attached to the petition herein. The one-way fare between Red Bluff and Eureka is to be \$12.00, with fares between intermediate points graded according to mileage.

Petitioner proposes to leave Eureka at 9 o'clock in the morning, arriving at Red Bluff at 2.40 p.m. the next day, and to leave Red Bluff at 8.30 a.m., arriving at Eureka at 3.00 p.m. the next day. Stops for the night in both directions are to be made at Auto Rest. The total distance between the two termini over the proposed route is 169 miles and much of the route traversed is of steep grade and difficult to travel.

The equipment to be used by petitioner will consist of 5-passenger Dodge, Oakland and Hupmobile cars. Petitioner now owns one new Oakland car and one Dodge almost new. Petitioner testified that he is in a position to secure all the necessary equipment and competent drivers.

Petitioner has conducted an automobile "rent" service for over three years in Red Bluff and has run occasionally from there to Eureka. A number of prominent citizens of Red Bluff testified that he is steady and reliable, thoroughly understands the automobile business and can be relied on to give a dependable service between Red Bluff and Eureka. Petitioner intends to comply fully with rules and regulations for automobile stage service heretofore established by the Railroad Commission and gave assurances that he will operate on schedule irrespective of the number of passengers who may present themselves.

From April 30, 1917, to November 1, 1917, Redwood Route Auto Stage, owned by Joseph K. Smith, operated between Eureka and Red Bluff. Mr. Smith appeared at the hearing of March 21, 1918, and protested against the granting of the present application. He testified that he had lost considerable money in operating his line last year but that he would continue operations this year irrespective of whether the petitioner herein also operates. Mr. Smith is engaged in building asphalt roads for Humboldt County. While he owns the Redwood Route line, he proposes to make arrangements to have some one else supervise its operation in 1918.

The testimony presented at the Red Bluff hearing shows very clearly that while the service of the Redwood Route line at the opening of the season in 1917 was good, the service deteriorated later in the season to such an extent that there was no assurance whether cars would run on schedule time. Frequently they did not so run and on many days they did not run at all. Automobiles of the Redwood Route line suffered

many breakdowns, they were frequently left on the route without spare tires and at times they were attached by the sheriff at Red Bluff for failure of the owner to pay bills. Prominent citizens of Red Bluff testified that while an automobile stage line between Red Bluff and Eureka could in their opinion, be made a paying business, the line which operated last year was not financially successful, because of poor and unreliable service and poor management.

When a "transportation company," as defined by chapter 213, laws of 1917, gives to the public reliable, safe and adequate service at reasonable rates and shows its ability to handle the traffic, this commission will be slow to grant to another "transportation company" the right to operate in the same field. But where, as here, the existing company's service has not been reliable or adequate, a newcomer who gives evidence of being able and willing to give to the public reliable, safe and adequate service at reasonable rates will be granted a certificate as provided in chapter 213, laws of 1917. In this respect the principles established by this commission in the leading cases of *Pacific Gas and Electric Company* vs. *Great Western Power Company*, Vol. 1, Opinions and Orders of the Railroad Commission of California, p. 203, and *Application of Oro Electric Corporation*, Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 748, and followed in many subsequent proceedings may properly be applied, in so far as the subject matter reasonably warrants, to "transportation companies" owning or operating interurban automobile stages or trucks. These principles will be applied even though there is only sufficient business for one concern.

Petitioner has not as yet secured permits from the local authorities as provided in section 3 of said chapter 213, but intends to make application promptly.

I recommend that the application be granted and submit herewith the following form of order:

#### ORDER.

George B. Mith having filed herein his petition asking that the Railroad Commission declare that public convenience and necessity require the operation by him of automobile stage service as a common carrier of passengers and express packages between Red Bluff and Eureka and intermediate points, public hearings having been held, the matter having been submitted and being now ready for decision.

The Railroad Commission hereby declares that public convenience and necessity require the operation by George B. Mith of automobile stage service as a common carrier of passengers and express packages between Red Bluff and Eureka and intermediate points along the route designated in the petition herein; provided, that this declaration shall not become effective until petitioner shall have secured from the

Railroad Commission a supplemental order herein reciting that he has filed herein a certified copy of permits from the counties of Tehama, Trinity, Shasta and Humboldt and the cities of Red Bluff, Fortuna and Eureka, as required by section 3, chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by petitioner herein or is leased by petitioner under a contract or agreement on a basis satisfactory to the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-ninth day of March, 1918.

DECISION No. 5257.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY TO FIX ITS RATES CHARGED FOR GAS.

Application No. 3287.

*Decided April 1, 1918.*

A gas utility filing a schedule of rates containing a clause to the effect that such rates are for gas of a heating value of 550 B.t.u., and a test showing the gas to have a heat content of only 536 B.t.u., is required to improve the heating value of its gas to the standard provided for in its tariffs when making effective an increased schedule of rates established by the commission.

Upon a showing that its operating expenses have greatly increased during the last six months, a revised schedule of rates is established for gas distributed by applicant in the cities of Santa Cruz, Watsonville, Hollister and Gilroy to become effective for regular meter readings made on and after April 12, 1918.

*S. Waldo Coleman*, for Applicant.

*W. R. Springer*, city attorney, for Santa Cruz.

*Walter S. Fitzgerald*, city attorney, for Gilroy.

*A. W. Sans*, city attorney, for Watsonville.

EDGERTON and DEVLIN, *Commissioners*.

OPINION.

This is an application of the Coast Counties Gas and Electric Company to fix the rates which it shall charge for gas in order that under the present conditions of high oil prices a reasonable return may be earned on the value of the property used in its gas business.

Coast Counties Gas and Electric Company operates four separate gas plants, manufacturing and distributing gas in Santa Cruz, Watsonville, Hollister and Gilroy for domestic and commercial purposes.

A public hearing in this proceeding was held in San Francisco on January 15, 1918, at which time testimony and evidence were introduced, and the matter was submitted with the understanding that a further report on the service of the company was to be submitted later by Assistant Engineer W. J. Hammond of the commission's gas and electric division.

The rates at present charged by applicant are as follows:

**SCHEDULE 1. General Service, Santa Cruz and Watsonville.**

	Per 1,000 cubic feet	
	Gross	Net
First 2,000 cubic feet per month.....	\$1 50	\$1 40
Next 23,000 cubic feet per month.....	1 10	1 00
Over 25,000 cubic feet per month.....	90	80
Minimum.....	60	50

**SCHEDULE 2. Hollister and Gilroy.**

First 2,000 cubic feet per month.....	\$1 60	\$1 50
Next 3,000 cubic feet per month.....	1 35	1 25
Next 20,000 cubic feet per month.....	1 10	1 00
Over 25,000 cubic feet per month.....	90	80
Minimum.....	60	50

**SCHEDULE 3. Prepay Meters, All Districts.**

\$1.50 per thousand cubic feet.  
Minimum, \$0.50.

**SCHEDULE 4. Bakery Ovens, All Districts.**

Rate per thousand cubic feet.....	\$0 85	\$0 75
Minimum.....	60	50

**SCHEDULE 5. Hotels and Restaurants.**

Rate per thousand cubic feet.....	\$0 85	\$0 75
Minimum (weekly).....	8 00	7 00

The above rates were filed with this commission by applicant but their reasonableness has never been formally passed upon by the commission.

The physical value of the properties, as claimed by the company in its application, totaled as follows on December 31, 1916:

Santa Cruz	\$178,590 54
Watsonville	108,384 82
Hollister	73,545 49
Gilroy	20,149 23*

It has not been possible for the commission's gas and electric division to make a detailed valuation of the properties of this company owing to the large number of applications for adjustment of gas and electric rates now before the commission as a result of the increased cost of operation caused by the emergency war condition. However, a personal inspection of these properties has been made by Mr. Hammond and this together with a comparison of the cost of these properties with similar properties in this state, indicates that the values claimed by applicant are, for the purposes of this proceeding, not excessive.

Applicant's revenue, expenses and return for the year 1916 are given below for each individual plant.

	Santa Cruz	Watsonville	Hollister	Gilroy
Gas revenue	\$17,516 59	\$25,133 40	\$12,179 75	\$12,816 00
Total operating expenses (excluding depreciation)	32,425 81	17,579 88	10,355 62	10,491 86
Net earnings	15,090 75	7,553 52	1,824 13	2,324 14
Per cent return for interest and depreciation	8.41	6.97	2.47	7.97

If depreciation allowance be deducted, the net return for interest on the capital would in no instance exceed 6 per cent.

Applicant's oil contract expired on October 1, 1917, since which date oil has been purchased at market prices, a contract being unobtainable. The cost of oil f.o.b. each city supplied, under the old and the present price is given below.

	As per contract which expired October 1, 1917	Price paid since October 1, 1917
Santa Cruz	\$0 77 per barrel	\$1.646 per barrel
Watsonville	88 per barrel	1.747 per barrel
Hollister	95 per barrel	1.856 per barrel
Gilroy	86 per barrel	1.739 per barrel

The following operating statistics for the year 1916 will show the effect of the increased cost of oil, labor and taxes and the revenue per thousand cubic feet of gas sold which it will be necessary to collect

\*The Gilroy plant is leased from the city, the above amount being the total additions and betterments made by the company.

during the year 1918 if the same return as that received in 1916 be realized:

	Santa Cruz	Watsonville	Hollister	Gilroy
Gallons of oil per M cubic feet sold.....	12.5	13.85	14.0	13.9
Oil cost per M cubic feet sold at—				
contract price .....	\$0.229	\$0.290	\$0.285	\$0.284
present price .....	.490	.576	.619	.575
Estimate labor cost increase (Applicant's Exhibits C, D, E, F).....	\$2,900.27	\$2,239.63	\$1,007.40	\$725.01
Revenue per M cubic feet sold.....	\$1.244	\$1.28	\$1.44	\$1.38
Increase in oil per M cubic feet sold.....	.261	.286	.331	.291
Increase in labor per M cubic feet sold.....	.074	.114	.119	.077
Tax on increased expenses per M cubic feet sold.....	.020	.024	.027	.022
Revenue per M cubic feet sold necessary in 1918 for same return as realized in 1916 .....	\$1.599	\$1.704	\$1.92	\$1.77

The above estimates are based upon the operations in effect during 1916. An analysis of the last four years of operation indicates no immediate prospect of any increase in the company's consumers or sales. We believe that economies could be introduced in certain of the plants which would reduce expenses to some extent. However, it is not probable that these economies would more than compensate for the losses which usually follow an increase in rates.

Mr. Hammond submitted a report of a special investigation of service in Santa Cruz. This report states that the gas in Santa Cruz was tested and found to have a heat content of 536 B.t.u. per cubic foot. Applicant's rate schedules on file with the Railroad Commission sets forth that the quality of gas served is 550 B.t.u. We believe that applicant's gas consumers are entitled during the present abnormal conditions to be served with gas of an average heat content of at least that set forth in applicant's rate schedules, which is 550 B.t.u. per cubic foot. We are, therefore, basing the rates established herein on a gas of that quality.

We believe that higher rates than those herein established would not result in greater revenue because of the effect of competitive fuels. Although these rates under present conditions may not net the applicant a return quite equal to that of 1916, which return was less than would be considered reasonable under normal conditions, we believe they will result in as high a net return as could be obtained from any higher rates. Based upon the sales of 1916, the applicant should realize revenue per thousand cubic feet of gas sold as follows:

Santa Cruz .....	\$1 59
Watsonville .....	1 63
Hollister .....	1 69
Gilroy .....	1 65

We submit the following form of order:

**ORDER.**

Coast Counties Gas and Electric Company having applied to the Railroad Commission for a revision of its rates charged for gas served in Santa Cruz, Watsonville, Hollister and Gilroy, and a public hearing having been held and the matter having been submitted and being now ready for decision,

The Railroad Commission hereby finds that the rates charged by Coast Counties Gas and Electric Company for gas are unjust and unreasonable in so far as they differ from the rates and charges herein established and that the rates and charges herein established are just and reasonable under existing conditions.

Basing its order on the foregoing findings of fact and on each statement of fact contained in the opinion preceding this order,

*It is hereby ordered* that Coast Counties Gas and Electric Company be and it is hereby authorized to establish and file with the Railroad Commission within ten (10) days from the date of this order and make effective for all bills rendered on regular meter readings made on and after April 12, 1918, the following rates for artificial gas having an average heat content of not less than 550 B.t.u. per cubic foot furnished in the territory served by it:

**SCHEDULE 1. General Service, Santa Cruz.**

	Gross	Net
First 500 cubic feet or less per month per meter.....	\$1 10	\$1 00
Next 2,000 cubic feet per month per meter (per M cu. ft.).....	1 65	1 55
Next 2,500 cubic feet per month per meter (per M cu. ft.).....	1 50	1 40
Next 5,000 cubic feet per month per meter (per M cu. ft.).....	1 30	1 20
Next 5,000 cubic feet per month per meter (per M cu. ft.).....		1 00
All over 15,000 cubic feet per month per meter (per M cu. ft.).....		90

**SCHEDULE 2. General Service, Watsonville.**

First 500 cubic feet or less per month per meter.....	\$1 10	\$1 00
Next 2,000 cubic feet per month per meter (per M cu. ft.).....	1 70	1 60
Next 3,000 cubic feet per month per meter (per M cu. ft.).....	1 50	1 40
Next 4,500 cubic feet per month per meter (per M cu. ft.).....	1 30	1 20
Next 5,000 cubic feet per month per meter (per M cu. ft.).....		1 00
All over 15,000 cubic feet per month per meter (per M cu. ft.).....		90

**SCHEDULE 3. General Service, Hollister and Gilroy.**

First 500 cubic feet or less per month per meter.....	\$1 10	\$1 00
Next 2,500 cubic feet per month per meter (per M cu. ft.).....	1 70	1 60
Next 4,000 cubic feet per month per meter (per M cu. ft.).....	1 50	1 40
Next 8,000 cubic feet per month per meter (per M cu. ft.).....		1 20
Next 10,000 cubic feet per month per meter (per M cu. ft.).....		1 00
All over 25,000 cubic feet per month per meter (per M cu. ft.).....		90



The net rate is effective if the bill is paid at the office on or before the tenth day of the month next succeeding that for which the bill is rendered. If bill is not paid on or before the tenth day of the month, the gross charge is effective.

**SCHEDULE 4. *Prepay Meters, Santa Cruz, Watsonville, Hollister and Gilroy.***

Rate: \$1.75 per thousand cubic feet per month per meter.

Minimum monthly charge, \$0.75.

**SCHEDULE 5. *Hotels, Restaurants and Bakeries, Santa Cruz and Watsonville.***

	Gross	Net
Rate per thousand cubic feet.....	\$0 90	\$0 85
Minimum weekly charge per meter.....	7 50	7 00
Annual guarantee .....		150 00

The net rate is effective if the bill is paid at the office of the company within three (3) days after reading of meter and presentation of weekly bill. If bill is not paid within three (3) days, the gross charge is effective.

**SCHEDULE 6. *Hotels, Restaurants and Bakeries, Santa Cruz, Watsonville, Hollister and Gilroy.***

	Gross	Net
Rate per thousand cubic feet.....	\$1 10	\$1 00
Minimum weekly charge per meter.....	4 00	3 50
Annual guarantee .....		50 00

The net rate is effective if the bill is paid at the office of the company within three (3) days after reading of meter and presentation of weekly bill. If bill is not paid within three (3) days, the gross charge is effective.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this first day of April, 1918.

## DECISION No. 5260.

## IN THE MATTER OF THE APPLICATION OF SUTTER-BUTTE CANAL COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CERTAIN NOTES TO GRIDLEY LAND AND IRRIGATION COMPANY.

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Application No. 3618.*Decided April 1, 1918.*

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Applicant authorized to issue \$8,000.00 face value of its 6 per cent notes to be delivered to the Gridley Land and Irrigation Company in part payment for irrigation properties purchased by applicant. A note in the sum of \$2,000.00 proposed to be issued by applicant for a period of less than one year, may be issued without authorization of the commission.

*Isaac Frohman*, for Applicant.

BY THE COMMISSION.

## OPINION.

Sutter-Butte Canal Company asks authority to issue 6 per cent notes aggregating \$8,000.00. One of the notes having the face value of \$2,000.00 will be payable on or before December 31, 1918, one note for \$1,000.00 on or before July 1, 1919, one note for \$1,000.00 on or before December 31, 1919, one note for \$1,000.00 on or before December 31, 1920, and one note for \$3,000.00 on or before December 31, 1922.

A hearing was held before Examiner Westover at San Francisco on March 30, 1918.

On February 11, 1918, the Railroad Commission by Decision No. 5125 authorized Gridley Land and Irrigation Company to sell on or before April 1, 1918, to the Sutter-Butte Canal Company for \$10,000.00 an irrigation distributing system in the vicinity of Gridley, a description of said system being contained in the commission's decision.

Sutter-Butte Canal Company desires to use the proceeds from the notes herein authorized to be issued for the purpose of paying in part for the properties which it has since acquired from the Gridley Land and Irrigation Company pursuant to said Decision No. 5125. The advisability of the transfer of these properties was considered by the commission in connection with Application No. 3508. The record in that proceeding is in evidence here.

Under the provisions of the Public Utilities Act, the \$2,000.00 note payable on or before December 31, 1918, may be issued without an order from the Railroad Commission.

## ORDER.

Sutter-Butte Canal Company having applied to the Railroad Commission for authority to issue notes aggregating \$8,000.00, a public hearing having been held and the commission being of the opinion that

the property to be acquired by such issue is reasonably required for the purpose specified in the order, which purpose is not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Sutter-Butte Canal Company be and it is hereby granted authority to issue to the Gridley Land and Irrigation Company 6 per cent notes of an aggregate face value of \$6,000.00 upon the following conditions:

(1) Of the notes herein authorized to be issued, one note for \$1,000.00 shall be payable on or before July 1, 1919, one note for \$1,000.00 shall be payable on or before December 31, 1919, one note for \$1,000.00 shall be payable on or before December 31, 1920, and one note for \$3,000.00 shall be payable on or before December 31, 1922.

(2) The proceeds of the notes shall be used by applicant to pay in part for the properties which it has acquired pursuant to Decision No. 5125, dated February 11, 1918.

(3) Sutter-Butte Canal Company shall file monthly reports with the Railroad Commission as required by the commission in its General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

(5) The authority herein granted to issue notes shall apply only to such notes as shall have been issued on or before June 1, 1918.

Dated at San Francisco, California, this first day of April, 1918.

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DECISION No. 5262.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND  
TERMINAL RAILWAYS FOR AN ORDER AUTHORIZING DISPO-  
SITION OF PART OF ITS PROPERTY.

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Application No. 3633.

*Decided April 2, 1918.*

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BY THE COMMISSION.

ORDER.

San Francisco-Oakland Terminal Railways having in this application set forth that because of some confusion with reference to the boundary line between the property of applicant in the Alpine Tract situated in the city of Oakland, Alameda County, state of California, and property of The Remar Company in the Alden Tract situated in the town of Emeryville, county of Alameda, state of California, and that in order to make certain this boundary line applicant has agreed to transfer

certain property to The Remar Company, and The Remar Company has agreed to transfer certain property to applicant, the property which applicant desires to transfer being described as follows:

All those certain lots, pieces or parcels of land situate, lying and being in the City of Oakland and in the Town of Emeryville, County of Alameda, State of California, bounded and particularly described as follows, to wit:

Commencing at the point of intersection of the eastern line of Adeline Street with the southern line of Lot 6 in Block 2115, as said Adeline Street and said lot and block are shown upon that certain map entitled "Map of the Alden Tract" etc., hereinafter referred to; and running thence north  $16^{\circ} 23'$  East along said eastern line of Adeline Street to a point distant measured along said line three hundred seventy-two and  $38/100$  (372.38) feet from its intersection with the northern line of 46th Street, as said 46th Street is shown upon that certain map entitled "Map of the Alden Tract" etc., hereinafter referred to; thence south  $45^{\circ} 49' 15''$  East, one hundred sixty-seven and  $55/100$  (167.55) feet to the intersection of the northern line of Alpine Street (now known as 52nd Street) with the boundary line between the said Alden Tract above referred to and the Alpine Tract, as shown upon the map hereinafter referred to; (said boundary line being the center line of the original channel of Temescal Creek) thence southerly along the center line of said original channel of Temescal Creek to its intersection with the western line of Linden Street, as said Linden Street is shown upon that certain map entitled "Map of the Alden Tract," etc., hereinafter referred to; thence south  $11^{\circ} 00'$  West along said line of Linden Street to its intersection with the southern line of Lot 5 in said Block 2115 of the Alden Tract; thence westerly along the southern line of said Lots 5 and 6 in said Block 2115 to the eastern line of Adeline Street and the point of commencement.

Being portions of Lots five (5) and six (6) in Block 2115 as said lots and block are laid down, delineated and so designated upon that certain map entitled "Map of the Alden Tract at Temescal" etc., filed December 10th, 1869, in the office of the County Recorder of said County of Alameda.

Also, being a portion of lot numbered one (1) in block lettered "B" as said lot and block are laid down, delineated and so designated upon that certain map entitled "Map of the Alpine Tract Oakland Township Alameda County California," etc., filed April 10th, 1895, in the office of the County Recorder of said County of Alameda.

And the property to be received by applicant being described as follows:

All those certain lots, pieces or parcels of land situate, lying and being in the City of Oakland and in the Town of Emeryville, County of Alameda, State of California, bounded and particularly described as follows, to wit:

Commencing at a point on the eastern line of Adeline Street, distant thereon southerly one hundred and  $12/100$  (100.12) feet,

measured along said line from the southern line of Plumas Street (now known as 53rd Street) as said Adeline and Plumas Streets are shown upon that certain map entitled "Map of the Alpine Tract" etc., hereinafter referred to, and running thence southerly along said line of Adeline Street, forty-nine and eighty eight-one hundredths (49.88) feet; thence south  $45^{\circ} 49' 15''$  East, one hundred sixty-seven and  $55/100$  (167.55) feet to the northern line of Alpine Street (now known as 52nd Street); thence north  $80^{\circ} 26'$  East along said line of Alpine Street seventy (70) feet to the most southern corner of Lot number 29 in Block lettered "B" of the Alpine Tract; thence north  $9^{\circ} 34'$  East along the western line of said lot numbered 29 and the western line of lot numbered 4 in said Block "B" to the northeastern corner of lot numbered 1 in said block lettered "B"; and thence westerly along the northern line of said lot numbered 1 one hundred forty-seven and  $26/100$  (147.26) feet to the said eastern line of Adeline Street and the point of commencement.

Being a portion of lot numbered one (1) in block lettered "B" as said lot and block are laid down, delineated and so designated upon that certain map entitled "Map of the Alpine Tract Oakland Township Alameda County California," etc., filed April 10th, 1895, in the office of the County Recorder of said County of Alameda.

Also being a portion of Block 2115 as said Block is laid down, delineated and so designated upon that certain map entitled "Map of the Alden Tract at Temescal" etc., filed December 10th, 1869, in the office of the County Recorder of said County of Alameda.

And applicant having herein asked authority to make said exchange and it appearing to the commission that the application should be granted, and that this is not a case in which a public hearing is necessary,

*It is hereby ordered* that the application herein be and the same hereby is granted; provided, that the authority herein granted shall apply only to such transfers as are made on or before June 30, 1918.

Dated at San Francisco, California, this second day of April, 1918.

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#### DECISION No. 5266.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA POWER AND MANUFACTURING COMPANY AND W. P. HAMMON AUTHORIZING SAID CORPORATION TO MORTGAGE A PUBLIC UTILITY, TO WIT, AN ELECTRIC PLANT AND SYSTEM TO SAID W. P. HAMMON.

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Application No. 3615.

*Decided April 2, 1918.*

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Applicant granted permission to mortgage its property to secure a note in the face value of \$6,200.00 which it proposes to issue to discharge indebtedness incurred in the purchase of property.

*Thomas H. Breese*, for Applicants.

BY THE COMMISSION.

**OPINION.**

California Power and Manufacturing Company asks authority to execute a mortgage substantially in the same form as the mortgage attached to the petition herein and marked Exhibit "A," to secure the payment of a \$6,200.00 6 per cent demand note to be issued to W. P. Hammon.

By Decision No. 1184, dated December 31, 1913 (Vol. 3, Opinions and Orders of the Railroad Commission of California, p. 1225), the Railroad Commission authorized Ernest Florin and Fred Florin, co-partners doing business under the firm name of Florin Bros., to sell to California Power and Manufacturing Company the property described in said decision for the sum of \$25,000.00. The agreement of sale provided that \$5,000.00 of the purchase price should be paid on or before January 15, 1914; \$5,000.00 on or before January 1, 1915; \$5,000.00 on or before January 1, 1916; \$5,000.00 on or before January 1, 1917, and \$5,000.00 on or before January 1, 1918, the deferred payments to bear interest at the rate of 6 per cent per annum payable annually. The testimony in this proceeding shows that all of the installments, with the exception of the last, have been paid; that the payment of the last installment has been extended to April 1, 1918, and that the interest accrued on this last payment from April 1, 1914, amounts to \$1,200.00, making a total payment due on April 1, 1918, of \$6,200.00.

California Power and Manufacturing Company has made arrangements to borrow \$6,200.00 from W. P. Hammon for the purpose of meeting this payment. To secure the payment of the \$6,200.00 to be borrowed from W. P. Hammon on a 6 per cent demand note, the company proposes to execute a mortgage substantially in the same form as that attached to the petition herein and for the purpose of identification having been marked Exhibit "A." In general, the proposed mortgage covers the operative property of California Power and Manufacturing Company. Reference is here made to the mortgage for a description of the properties covered thereby.

No one appeared at the hearing to protest against the execution of the mortgage to secure the payment of the \$6,200.00 note.

**ORDER.**

California Power and Manufacturing Company having applied to the Railroad Commission for authority to mortgage certain of its properties to secure the payment of a \$6,200.00 note, a hearing having been held and it appearing to the Railroad Commission that this application should be granted,

*It is hereby ordered* that California Power and Manufacturing Company be and it is hereby granted authority to execute a mortgage substantially in the same form as the mortgage attached to the petition herein and marked Exhibit "A"; provided, that the approval herein given of said mortgage is for the purpose of this proceeding only and is an approval only so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject; provided, further, that the authority herein granted shall apply only to such mortgage as may be executed on or before June 1, 1918, and that within thirty days after the execution of the mortgage, California Power and Manufacturing Company shall file with the Railroad Commission a verified copy.

Dated at San Francisco, California, this second day of April, 1918.

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DECISION No. 5267.

IN THE MATTER OF THE APPLICATION OF COACHELLA VALLEY ICE AND ELECTRIC COMPANY AND OF THE SOUTHERN SIERRAS POWER COMPANY FOR AN ORDER OR ORDERS AUTHORIZING THE SALE AND TRANSFER BY THE SAID COACHELLA VALLEY ICE AND ELECTRIC COMPANY TO THE SAID THE SOUTHERN SIERRAS POWER COMPANY OF THE PROPERTY, ASSETS AND BUSINESS OF THE COACHELLA VALLEY ICE AND ELECTRIC COMPANY, A PUBLIC UTILITY, OPERATING IN IMPERIAL COUNTY, STATE OF CALIFORNIA.

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Application No. 3477.

*Decided April 2, 1918.*

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Coachella Valley Company authorized to transfer its properties to The Southern Sierras Company at a valuation of \$791,320.03 as of December 31, 1917, and the latter company authorized to execute a trust indenture whereby it agrees to assume the payment of \$300,000.00 face value of outstanding bonds of the selling company; provided, that the bookkeeping entries of the purchasing company, with reference to the properties acquired, be first approved by the commission, and that stipulations be filed to the effect that no value shall ever be claimed for any franchise or permit acquired in excess of the actual original cost thereof and that the price paid for the properties shall not be urged as a basis of value in future rate or other investigations.

*I. B. Potter, Charles F. Potter and E. B. Criddle, for Applicants.*

BY THE COMMISSION.

OPINION.

Coachella Valley Ice and Electric Company, in its amended application, asks authority to sell to The Southern Sierras Power Company for \$791,320.03, all of its property, assets and business. The purchas-

ing company joins in the application and asks authority to execute a trust indenture wherein and whereby it agrees to assume the payment of \$300,000.00 of outstanding bonds of Coachella Valley Ice and Electric Company.

Reference is here made to Exhibit "C" attached to the original petition herein for a general description of the tangible properties to be transferred. The purchase price of \$791,320.03 applies to the properties as they existed on December 31, 1917. To the selling price is to be added the cost of any assets that may be acquired between December 31, 1917, and the date on which the Railroad Commission formally approves the sale of the properties, less such current liabilities as may be incurred within the same period.

A hearing was held on this application before Examiner Eucell at Los Angeles on February 21, 1918.

Coachella Valley Ice and Electric Company was organized on or about March 16, 1911. The company has an authorized stock issue of \$300,000.00, all of which is outstanding. All of the outstanding stock, except shares necessary to qualify directors, is owned by the Nevada-California Electric Corporation.

The transmission lines of the Coachella Valley Ice and Electric Company extend from Banning, Riverside County, to El Centro, Imperial County, and to Yuma, Arizona. At Banning the Coachella Company's lines connect with those of The Southern Sierras Power Company, from which company electrical energy is purchased.

In the amended application herein Coachella Valley Ice and Electric Company, reports assets and liabilities as of December 31, 1917, as follows:

<i>Assets.</i>		
Fixed capital .....		\$631,044 69
Installed prior to January 1, 1913 .....	\$11,865 77	
Installed since December 31, 1912 .....	619,178 92	
Cash on hand and in banks .....		11,672 85
Notes receivable .....		626 43
Accounts receivable .....		148,919 53
Consumers and agents .....	\$16,468 74	
Miscellaneous .....	132,450 79	
Interest and dividends receivable .....		2,630 26
Due from Imperial Ice and Development Company .....		1,476 85
Materials and supplies .....		14,407 55
Prepaid rents .....		37 00
Prepaid insurance .....		40 20
Undistributed amounts .....		327 33
Unamortized discount and expense on securities .....		235,553 04
Total assets, including discount .....		\$1,046,735 73



<i>Liabilities.</i>	
Capital stock outstanding.....	\$300,000 00
First mortgage 6 per cent gold bonds outstanding.....	300,000 00
Notes payable.....	66,706 51
Current liabilities.....	96,877 82
Taxes accrued.....	\$2,068 73
Accruing interest on first mortgage bonds.....	9,000 00
Accruing interest on notes payable.....	4,569 19
Vouchers payable.....	775 66
Unpaid pay roll.....	552 75
Unclaimed wages.....	1 25
Consumers' deposits.....	2,091 00
Miscellaneous.....	77,819 24
Due associated companies on open account.....	228,119 03
Nevada-California Power Company.....	\$133,997 02
The Southern Sierras Power Company.....	94,111 21
Hillside Water Company.....	10 80
Reserved for auto expense.....	106 48
Surplus.....	54,925 89
Total liabilities.....	\$1,046,735 73

The Southern Sierras Power Company agrees to pay for the properties of the Coachella Valley Ice and Electric Company the sum of \$791,320.03. In acquiring these properties at this price the company agrees to assume the payment of the \$300,000.00 of bonds, \$66,706.51 of notes, \$309,358.93 of accounts, \$13,569.19 of interest accrued and \$2,068.73 of taxes accrued, making a grand total of \$691,703.36 of indebtedness, the payment of which will be assumed by The Southern Sierras Power Company. The assumption of this indebtedness leaves a balance due the Coachella Valley Ice and Electric Company on the selling price of its electric properties amounting to \$99,616.67.

The purchase price of \$791,320.03 is reported by applicants to consist of the following items:

Present depreciated book value of properties, December 31, 1917 (exclusive of cash and deposits, materials and supplies and development costs).....	\$333,788 64
Add cash additions to December 31, 1917, as shown by Coachella company books.....	277,720 72
Materials and supplies, December 31, 1917, as shown by Coachella company books.....	14,407 55
Cash and deposits.....	11,672 85
Notes receivable.....	626 43
Accounts receivable.....	150,473 58
Interest and dividends receivable.....	2,630 26
Total.....	\$791,320 03

The purchase price includes no allowance for development costs. The \$277,720.72 referred to above appears to represent the cost of construction work in progress.

On December 13, 1913, the Railroad Commission by Decision No. 1135 authorized Coachella Valley Ice and Electric Company to issue at not less than 80 per cent of their face value, plus accrued interest, \$300,000.00 of 6 per cent bonds. The bonds mature serially from January 1, 1937, to January 1, 1956, both dates inclusive. The payment of the bonds is secured by a mortgage dated January 1, 1912, and executed to the Southern Trust Company of the city of Los Angeles. The order of the commission as amended provides that the Company must amortize the discount on its bonds over a period of twenty years. The payment of the \$300,000.00 of bonds issued by the Coachella Valley Ice and Electric Company is guaranteed by the Holton Power Company.

The Southern Sierras Power Company proposes to execute a trust indenture wherein and whereby it will agree to assume the payment of the \$300,000.00 of outstanding bonds of the Coachella Valley Ice and Electric Company, to observe all of the terms and conditions of the mortgage securing the payment of these bonds and to keep the properties now owned by the Coachella Valley Ice and Electric Company at all times separable and distinguishable from the other properties which belong to The Southern Sierras Power Company.

The testimony shows that all of the outstanding bonds of the Coachella Valley Ice and Electric Company, except possibly \$2,000.00, are owned by the Nevada-California Electric Corporation. The mortgage securing the payment of these bonds provides that they may be redeemed on any interest payment date at 105 per cent of their face value with accrued interest. Mr. Charles F. Potter in his letter of March 20, 1918, is of the opinion that in view of the high premium and because of present war conditions the bonds of the Coachella Valley Ice and Electric Company should be permitted to remain outstanding, rather than be paid or refunded through the issue of bonds of The Southern Sierras Power Company. While the mortgage securing the payment of the bonds of Coachella Valley Ice and Electric Company provides that they may be redeemed at 105, it does not necessarily follow as a matter of fact that the bonds have to be redeemed at 105. Practically all of these bonds are owned by the Nevada-California Electric Corporation which owns all of the outstanding stock, but directors' shares, of The Southern Sierras Power Company. While the company would have the legal right to insist upon the payment of the bonds at 105, we fail to see under the facts as presented what disadvantage would accrue to it by consenting to a redemption at a figure less than 105.

Though the commission in its order will authorize the execution of a trust indenture as requested by applicants, it is of the opinion that as soon as financial conditions return to a more normal status the

bonds of the Coachella Valley Ice and Electric Company should be paid off or refunded through the issue of bonds of The Southern Sierras Power Company. We are of the opinion that if these properties are to be consolidated, that the consolidation should be carried to its logical conclusion as soon as possible and the Coachella Valley Ice and Electric Company dissolved.

It appears from the testimony that The Southern Sierras Power Company has no business of its own in the territories now served by the Coachella Valley Ice and Electric Company. If it is authorized to acquire the properties of that company, it will continue in effect the same rates charged by the Coachella Valley Ice and Electric Company.

On May 23, 1914, the Railroad Commission by Decision No. 1539 declared that public convenience and necessity required the exercise by Coachella Valley Ice and Electric Company of the rights and privileges conferred by Ordinance No. 118 of the board of supervisors of Riverside County and the rights and privileges granted by the resolution of March 3, 1914, of the board of supervisors of Imperial County. The commission in its decision calls attention to the fact that the Coachella Valley Ice and Electric Company will use the permit obtained from the board of supervisors of Imperial County solely for the purpose of transmitting electric energy to Holton Power Company's substation in or near El Centro and not for the distribution of electric energy in Imperial County.

In the application now pending before the commission specific reference is made to the franchise granted by the board of supervisors of Riverside County but no mention is made to the permit obtained from the board of supervisors of Imperial County. We believe that before the authority herein granted shall become effective The Southern Sierras Power Company should furnish the Commission with a statement showing under what authority it proposes to operate in Imperial County.

#### ORDER.

Coachella Valley Ice and Electric Company and The Southern Sierras Power Company having applied to the Railroad Commission for an order authorizing the sale and transfer of properties referred to in the foregoing opinion, a hearing having been held, and the commission being of the opinion that this application should be granted,

*It is hereby ordered* that Coachella Valley Ice and Electric Company be and it is hereby granted authority to sell to The Southern Sierras Power Company for the consideration which is specified in the opinion which precedes this order, all property of whatever character owned or controlled by said Coachella Valley Ice and Electric Company.

*It is hereby further ordered* that The Southern Sierras Power Company be and it is hereby granted authority to execute a trust indenture substantially in the same form as the trust indenture attached to the supplemental petition herein, filed on March 14, 1918.

The authority herein granted is upon the following conditions and not otherwise:

1. Before the authority herein granted to transfer the properties shall become effective The Southern Sierras Power Company shall file with the Railroad Commission a stipulation duly authorized by its board of directors in which stipulation The Southern Sierras Power Company agrees that neither it, its successors or assigns, will ever claim before the Railroad Commission or other public body, a value for the franchise to be acquired from the Coachella Valley Ice and Electric Company pursuant to the authority herein granted, in excess of the amount actually paid to Riverside County as a consideration for the grant of such franchise which amount shall be set forth in the stipulation and shall have obtained from the Railroad Commission a supplemental order declaring that such stipulation in form satisfactory has been filed with the Railroad Commission.

2. The authority herein granted shall not become effective until Coachella Valley Ice and Electric Company has filed with the Railroad Commission a copy of each and every permit or franchise under which it is operating in Imperial County. A stipulation similar in form to that referred to in condition "1" of this order shall be filed by The Southern Sierras Power Company with reference to each and every permit or franchise under which the Coachella Valley Ice and Electric Company is operating in Imperial County.

3. The authority herein granted shall not become effective until the Railroad Commission has approved the bookkeeping entries relative to the transfer of the properties herein authorized to be sold.

4. The price at which The Southern Sierras Power Company is authorized to acquire the properties of the Coachella Valley Ice and Electric Company shall never be urged upon the Railroad Commission or other public body as a measure of value on which to base rates, issue securities or for any other purpose.

5. Within thirty days after the transfer of the properties herein authorized The Southern Sierras Power Company shall file a verified copy of the deed of conveyance.

6. The authority herein granted to transfer property shall apply only to such property as shall have been transferred on or before November 1, 1918.

Dated at San Francisco, California, this second day of April, 1918.

DECISION No. 5271.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN WHARF  
COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 3635.

*Decided April 2, 1918.*

In authorizing an issue of stock by a public utility operating a wharf and warehouse, the commission will consider only the present earnings of the utility and not the probable revenue which it is assumed will be earned after the war. Applicant authorized to issue 1,000 shares of its capital stock of the par value of \$100.00 per share, such stock to be sold at not less than par, 993 shares thereof to be issued in exchange for certain wharf and warehouse properties, the balance to cover expense of transfer.

*Benjamin E. Page*, for Applicant.

EDGERTON, *Commissioner*.

OPINION.

Southwestern Wharf Company asks authority to issue 1,500 shares of common stock of the par value of \$100.00 each. Of the stock, applicant intends to issue 1,493 shares to acquire the properties described in an exhibit attached to the petition herein. The remaining 7 shares it proposes to sell at par and use the proceeds to pay in part for the execution and delivery of the deed to said properties.

Southwestern Ship Building Company owns and controls through lease some 76 acres of water front property adjacent to Los Angeles harbor. Of this about 5 acres have been improved for wharf and warehouse purposes. The remainder of the property it is intended to use for shipbuilding purposes. This application has been filed with a view of segregating the wharf and warehouse business coming under the jurisdiction of the Railroad Commission from the nonpublic utility business.

The public utility property and business involved in this application was formerly owned and conducted by the Pacific Wharf and Storage Company. The properties which applicant intends to acquire consist of 5 acres of land under lease having a remaining life of 38 years. The leasehold interests in these properties applicant estimates at an approximate value of \$100,000.00. The value of the improvements on the 5 acres of land applicant reports in Exhibit "A" attached to the petition herein as follows:

Wharf structures -----	\$72,885 86
Warehouse building -----	19,219 65
Railroad tracks -----	12,500 00
Small buildings -----	1,574 87
Bulkhead in rear of wharf -----	4,500 00
Total -----	\$110,680 38

The testimony shows that the properties to be acquired by applicant herein yielded a net profit of \$20,000.00 in 1915. During January and February of the current year, applicant reports a net profit of about \$750 per month, which would be at the rate of about \$9,000.00 per annum. The decrease in earnings is attributed to the withdrawal of ships from Pacific coastwise trade by the federal government for war purposes.

Benjamin E. Page, counsel for applicant, stated at the hearing that none of the stock authorized to be issued to acquire properties will be sold to the public. All of the stock will be issued to and held by the Southwestern Ship Building Company.

The commission has made no appraisal of the properties referred to in this application, but I do not think an appraisal of the properties necessary for the purpose of this proceeding.

I believe that in authorizing the issue of stock to acquire this property, the commission should consider the present earnings, rather than the problematical earnings after the war. Applicant stated that an issue of \$150,000.00 of stock was not essential and I recommend that \$100,000.00 par value of stock be authorized.

#### ORDER.

Southwestern Wharf Company having applied to the Railroad Commission for authority to issue 1,500 shares of its common stock, a hearing having been held and the commission being of the opinion that the money or property to be procured or paid for by such issue of stock as herein authorized is reasonably required for the purpose or purposes specified in the order.

*It is hereby ordered* that Southwestern Wharf Company be and it is hereby granted authority to issue at not less than the par value thereof 1,000 shares of its common stock of the par value of \$100.00 per share, upon the following conditions:

1. Of the stock herein authorized to be issued, 993 shares, or such an amount thereof as may be necessary, may be issued by applicant for the purpose of acquiring, free of encumbrance except taxes, the properties fully described in a copy of the deed attached to the petition herein.

2. The proceeds from 7 shares of stock herein authorized to be issued, shall be used by applicant to pay in whole or in part for the expenses incident to the execution and delivery of the deed to the properties referred to in the exhibit attached to the petition herein.

3. Within thirty days after the purchase of the properties referred to in condition No. 1 of this order, applicant shall file with the Railroad Commission a verified copy of its deed to said properties.

4. Southwestern Wharf Company shall file with the Railroad Commission a report or reports as required by the commission in its General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to issue stock shall apply only to such stock as may be issued on or before June 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this second day of April, 1918.

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DECISION No. 5278.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, IN THE NAME AND ON BEHALF OF CERTAIN CARRIERS, FOR AUTHORITY TO ESTABLISH SWITCHING CHARGE.

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Application No. 3264.

*Decided April 5, 1918.*

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Owing to the present urgent necessity for expediting freight traffic as much as possible, the commission will look with favor upon the establishment of any fair rule which will eliminate delays and prevent congestion. Carriers granted permission to establish a charge of \$2.50 per car for switching after the initial placing of the car for unloading, such charge to become effective within ten days; provided, that cars held awaiting governmental inspection will not be considered as being initially placed.

*C. W. Durbrow and Elmer Westlake*, for Southern Pacific Company.  
*E. W. Camp and G. H. Baker*, for Atchison, Topeka and Santa Fe Railway Company.

*Allan P. Matthew*, for Western Pacific Railroad Company.

*A. S. Halsted*, for Los Angeles and Salt Lake Railroad Company.

*T. J. Day*, for Pacific Electric Railway Company.

*Seth Mann*, for San Francisco Chamber of Commerce.

*J. C. Sommers*, for Stockton Chamber of Commerce.

*F. P. Gregson*, for Associated Jobbers of Los Angeles, Los Angeles Produce Exchange and Los Angeles Grain Exchange.

LOVELAND, *Commissioner*.

OPINION.

This is an application filed by F. W. Gomph, agent, in the name and on behalf of the following carriers:

Atchison, Topeka and Santa Fe Railway Company,  
 Los Angeles and Salt Lake Railroad Company,  
 Northwestern Pacific Railroad Company,  
 Pacific Electric Railway Company,

Southern Pacific Company,  
Sunset Railway Company,  
Tonopah and Tidewater Railroad Company,  
Western Pacific Railroad Company,

asking authority under section 63 of the Public Utilities Act to establish the following switching charge:

CHARGE FOR SWITCHING AFTER INITIAL PLACING  
OF CAR FOR UNLOADING.

Carload rates in this company's tariffs include delivery on this company's team tracks at destination, and when notice of disposition is furnished prior to arrival, include delivery on industry tracks, wharves served by this company's rails, or interchange track with connecting line, within switching limits.

The above constitutes initial placement.

This rule, if established, will automatically place in operation switching charge now published in carrier's tariffs of \$2.50 per car applying to movements subsequent to initial placing.

It is stated in application that no charge is made for this class of switching at the present time as cars are held on "hold" or team tracks pending disposition.

The rule proposed is the same as now applies to interstate traffic, which has been in effect since September 4, 1916. Applicant states proposed step is for the purpose of eliminating unnecessary detention of cars by securing advance information from consignee as to placing of cars for unloading, thereby avoiding congestion and extra switching.

Considerable testimony was introduced by applicant to show the extra labor and expense incurred in handling cars on "hold" tracks. An explanation of the general method of handling cars at terminals was made by one of the inspectors of transportation of the Southern Pacific Company who stated that upon arrival at the classification or assembly yard the trains are broken up and switched into drags, a drag being the unit handled by switch engine.

If predisposition has been given, the cars are switched directly to industry or other delivery track. If disposition has not been obtained beforehand, the cars are switched to the "hold" tracks. When final orders are received from consignee a switch engine pulls these cars from the "hold" track to final destination in the yard.

It is alleged by witness that this involves considerable extra switching, and detention of cars over and above that required to make direct delivery from the distribution yard.

By way of illustration it was pointed out that very often it is necessary in order to remove a car from "hold" track to draw out a long string of cars to secure the one desired and that frequently



movements from the hold tracks to industries, on account of their location, involve crossing the main line tracks with consequent delay due to necessity of avoiding main line trains; also that special service is rendered in approximately 50 per cent of the hold track movements.

A knowledge of the extent of switching subsequent to initial placing may be gained from the following exhibit offered in evidence by applicant which shows the operations of this character at the most important terminals of the Southern Pacific Company.

**Southern Pacific Company.**

(Pacific System.)

*Supplemental Switching of Intrastate Cars-- August, 1917.*

	Number Intrastate cars received	Number requiring supplemental switching	Per cent requiring supplemental switching	Average detention on hold track
San Francisco .....	5,280	491	9.37	44 hours
Los Angeles .....	3,817	465	12.08	27 hours
Sacramento .....	1,084	80	7.38	31 hours
Fresno .....	1,972	87	4.4	18 hours
San Jose .....	940	32	3.41	13 hours
Stockton .....	1,171	257	21.9	39 hours

The percentage of cars switched from hold track at Stockton is attributed to the extensive brokerage business transacted at that point. Cars in many instances are ordered to Stockton without definite purchaser of contents, even at time of arrival, necessitating placement on hold track awaiting subsequent disposition.

It is the opinion of carriers that a rule such as applies to interstate traffic will have the effect of greatly lessening hold track movements, and it was shown through the testimony of their witnesses that large increases in interstate predisposition orders were made immediately after the interstate rule became effective. As a further index of the results accomplished by publication of the rule for interstate traffic, the subjoined exhibit was offered on behalf of the Southern Pacific Company:

*Interstate Cars Held Various Yards Both Prior and Subsequent to Establishment of I. C. C. Ruling Providing for \$2.50 Charge Where Advance Disposition is Not Furnished.*

Location	August, 1916			September, 1916		
	Cars received	Cars held	Per cent	Cars received	Cars held	Per cent
San Francisco .....	1,730	294	17	1,810	343	19
Stockton .....	150	86	57	206	6	3
San Jose .....	170	47	28	185	26	14
Sacramento .....	196	108	55	380	126	33
Los Angeles .....	1,492	639	43	1,580	272	17
Fresno .....	150	27	18	169	21	14

From this table it will be seen that, with the exception of San Francisco, a marked improvement was made in the number of interstate cars placed on hold tracks with publication of the interstate rule effective September 4, 1916. This is noticeably present in the case of Stockton where the number of cars held decreased from 57 to 3 per cent; likewise at Sacramento and Los Angeles where considerable reduction was effected. The unfavorable showing at San Francisco is attributed to the export car situation, applicant alleging that were it not for this feature results similar to those shown at the other terminals may reasonably have been expected at San Francisco.

The only objection to the granting of this petition came from the Los Angeles Produce Exchange and the Los Angeles Grain Exchange, who through their attorney protested the application of proposed rule to potatoes and grain. Although the San Francisco and Stockton Chambers of Commerce were represented by counsel no protest was made nor testimony introduced in controversion of that offered by applicant.

While objection was made to bringing potatoes and grain within the provisions of proposed rule the testimony of protestants was addressed exclusively to grain, witness testifying that before grain can be received at the mills, examination must be made by a government inspector to see that the grain meets the necessary requirements as to quality.

In addition to oral testimony, exhibits were filed by protestants showing inspection, reconsignment and diversion privileges applicable at Chicago and other parts of the United States but upon cross-examination witness admitted he was unfamiliar with any of the local conditions prevailing at such points and no attempt was made to show a similarity of conditions.

Evidence of this nature, while of interest, can be given no weight in determining the reasonableness of proposed rule where the transportation and commercial conditions may be entirely dissimilar.

Protestants testified that as a war measure mills having a daily output of more than 75 barrels of flour are licensed by the government and that such mills must observe the federal rules which prescribe fixed prices for rye and wheat, according to grade and quality and that as a consequence governmental inspection is required before the price to be paid can be determined.

While the present federal control applies to wheat and rye only it was the opinion of witness, based upon circulars received from the Food Administration, that other grains would be shortly brought within its jurisdiction.

Testimony of protestants developed that application of proposed rule to grain would be unavailing as a step toward conservation of equipment by prompt switching of cars to mill owing to necessity of first securing inspection to ascertain the grade of grain before its storage location can be determined.

From the evidence adduced it is apparent that much delay to equipment ensues from this practice of placing cars on "hold" tracks. The business of a carrier is transportation and in order that its function in this respect may not be impaired, it is important that impediments to prompt release of cars should be removed.

This is not a merely local problem but one of national importance. Our nation has entered the great European conflict and its success is largely dependent upon the prompt and efficient service rendered by the transportation lines of the country.

As a consequence of the enormous demand made on the carriers their equipment and terminal facilities have been taxed to the utmost. It is therefore of vital importance that existing equipment be made to render a maximum efficiency and any rules tending to accomplish such purpose will be regarded with favor by this commission.

The proposed change is penal in nature, the primary object being to prevent congestion and delay, thereby relieving carriers' facilities for transportation purposes. Subordinately, it is to compensate the transportation companies for additional service performed.

The foregoing exhibits filed by applicant clearly demonstrate the efficacy of a switching charge in reducing supplemental car movements and that a remedial measure such as already adopted for interstate traffic will have the general effect desired on intrastate business.

I am convinced, however, that some exception should be made in the case of commodities held for governmental inspection. While carriers stand ready to switch such freight direct to industries, this is not possible under the present war conditions, owing to federal requirements. In my opinion the transportation service is not completed until after the commodity has been passed upon by the federal inspector.

A careful consideration of the evidence submitted leads me to the conclusion that a general rule such as proposed, with the modification that it will not apply to commodities placed on hold or disposition tracks awaiting governmental inspection, is reasonable and that its adoption will be to the ultimate advantage of the shipping public.

The following form of order is submitted:

#### ORDER.

F. W. Gomph, agent, in the name and on behalf of the  
Atchison, Topeka and Santa Fe Railway Company,  
Los Angeles and Salt Lake Railroad Company,

Northwestern Pacific Railroad Company,  
 Pacific Electric Railway Company,  
 Southern Pacific Company,  
 Sunset Railway Company,  
 Tonopah and Tidewater Railroad Company,  
 Western Pacific Railroad Company,

having applied under section 63 of the Public Utilities Act for authority to publish a charge for switching after initial placing of car for unloading, a public hearing having been held, and the Railroad Commission being fully apprised in the premises, the Railroad Commission hereby finds as a fact that the proposed charge, as set forth in application and modified in preceding opinion, is just and reasonable.

Basing its order on the foregoing finding of fact and on the further findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that F. W. Gomph, as agent of the aforementioned carriers, be and is hereby authorized to publish in tariff, effective ten days after filing with the commission the following charge:

CHARGE FOR SWITCHING AFTER INITIAL PLACING  
OF CAR FOR UNLOADING.

Carload rates in this company's tariffs include delivery on this company's team tracks at destination, and when notice of disposition is furnished prior to arrival, include delivery on industry tracks, wharves served by this company's rails, or interchange track with connecting line, within switching limits.

The above constitutes initial placement except that cars held awaiting governmental inspection will not be considered as initially placed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifth day of April, 1918.

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 DECISION No. 5279.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

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 Application No. 3505.

*Decided April 5, 1918.*

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 Applicant granted permission to issue \$218,084.71 face value of its 5½ per cent first mortgage bonds, to be sold at not less than 94, the proceeds thereof to be used to pay in part \$220,000.00 face value of outstanding notes or to reimburse its treasury covering capital expenditures made from earnings.

*W. E. Crecd and A. G. Tashcira, for Applicant.*

EDGERTON, *Commissioner*.

**OPINION.**

East Bay Water Company asks authority to issue \$218,084.71 of its first mortgage  $5\frac{1}{2}$  per cent bonds payable January 1, 1946.

Applicant's mortgage provides that the trustee shall certify bonds, to aid in acquiring and providing for 80 per cent of the cost of betterments, improvements or extensions of the works of the company, or acquisitions of new property of the company. In schedules attached to the petition herein, applicant reports its construction expenditures during 1917 as follows:

San Pablo project.....	\$605,986 05
General construction .....	351,976 34
Total .....	\$957,962 39
Less allowance for depreciation .....	200,000 00
Amount against which applicant intends to issue bonds .....	\$757,962 39
Amount of expenditures against which the commission has authorized the issue of bonds pursuant to Application No. 3011 .....	485,356 50
Balance of construction expenditures against which the commission has not authorized the issue of any bonds.....	\$272,605 89

Applicant reports that under its mortgage it may issue \$218,084.71 of bonds against the \$272,605.89 of construction expenditures.

In its annual report for 1917, filed with the Railroad Commission, applicant reports revenues and expenses for the year as follows:

Item	1917.
Operating revenues .....	\$1,763,074 13
Operating expenses .....	967,742 67
Net operating revenue .....	\$795,331 46
Add:	
Nonoperating revenues .....	35,917 40
Gross corporate income .....	\$831,248 86
Deductions:	
Interest on funded debt.....	534,833 64
Other interest deductions.....	4,363 75
Uncollectible bills .....	5,932 77
Amortization of debt discount and expense.....	473 80
Nonoperating revenue deductions .....	1,962 02
Rents for lease of other water plants.....	866 68
Total deductions .....	\$551,432 70
Balance carried to corporate surplus account.....	\$279,816 16

Applicant reports its additions to and deductions from its corporate surplus account during the year 1917 as follows:

Profit for year from income account.....	\$279,816 16
Miscellaneous additions to surplus .....	82,002 75
<b>Profit plus additions.....</b>	<b>\$361,818 91</b>
<b>Deductions:</b>	
Dividends on outstanding stock .....	201,582 00
Miscellaneous deductions .....	6,534 10
<b>Total deductions .....</b>	<b>\$208,116 10</b>
<b>Surplus on December 31, 1917.....</b>	<b>\$153,702 81</b>

In Schedule "1" attached to the petition herein applicant reports assets and liabilities as follows:

<i>Assets.</i>	
Fixed capital .....	\$15,221,296 36
Cash on hand undeposited .....	8,673 76
Cash in banks .....	50,951 64
Special deposits .....	22,181 85
Revolving fund .....	3,205 00
Notes receivable .....	6,291 86
Accounts receivable, consumers.....	71,914 46
Accounts receivable, miscellaneous .....	7,675 83
Leases receivable .....	155 00
Investments, Liberty Bonds.....	10,000 00
Materials and supplies.....	139,975 62
Other special funds.....	2,000 00
Accruing land rents on leases .....	95,111 68
Advanced expenses .....	162,094 73
Stock discount .....	1,919,680 00
Unamortized discount on securities.....	13,883 57
Other suspense .....	8 55
Union Trust Company of San Francisco, trustee, proceeds of sale of nonoperative real estate.....	13,520 63
San Pablo project .....	605,986 05
Treasury securities .....	1,200 00
<b>Total assets .....</b>	<b>\$18,355,806 59</b>

<i>Liabilities.</i>	
Class A - 6 per cent cumulative preferred capital stock.....	\$4,480,800 00
Class B - 6 per cent noncumulative preferred capital stock.....	2,987,200 00
Common capital stock.....	100,000 00
First mortgage thirty-year 5½ per cent gold bonds.....	9,827,900 00
Bonds in reserve .....	73,500 00
Mortgages payable .....	12,500 00
Notes payable .....	220,000 00
Audited vouchers .....	82,656 53
Audited pay rolls .....	2,337 85
Guarantee deposits .....	10,312 20
Extension deposits .....	73,537 78
Accounts payable, miscellaneous .....	6,353 39

Contracts payable .....	\$200 00
Land rents charged in advance.....	117,457 13
Land sales account.....	7,348 90
Reserve depreciation .....	200,000 00
Surplus .....	153,702 81
Total liabilities .....	<b>\$18,355,806 59</b>

The testimony in this proceeding shows that the construction expenditures during 1917 have been paid out of funds obtained from the Peoples Water Company, from earnings and from a \$220,000.00 loan represented by short-term notes. It is the intention of applicant to use the proceeds of the bonds to pay the \$220,000.00 of notes or other notes given in renewal thereof or to reimburse its treasury because of having used earnings to pay said notes.

I herewith submit the following form of order:

#### ORDER.

East Bay Water Company having applied to the Railroad Commission for authority to issue \$218,084.71 of its first mortgage 5½ per cent bonds, payable January 1, 1946, a hearing having been held, and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that East Bay Water Company be and it is hereby granted authority to issue \$218,084.71 of its first mortgage 5½ per cent bonds, payable January 1, 1946, upon the following conditions:

1. The bonds herein authorized to be issued shall be sold by applicant for cash at not less than 94 per cent of their face value, plus accrued interest.
2. The proceeds obtained from the sale of the bonds herein authorized to be issued shall be used by applicant to pay in part the \$220,000.00 of notes outstanding December 31, 1917, or notes given in renewal thereof or to reimburse applicant's treasury because of earnings expended for the payment of said notes.
3. East Bay Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month shall make verified reports to the Railroad Commission, in accordance with the commission's General

Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

5. The authority herein granted shall apply only to such bonds as may be issued on or before December 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifth day of April, 1918.

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DECISION No. 5281.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OR OF NOTES.

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Application No. 3506.

*Decided April 5, 1918.*

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Applicant authorized to issue \$900,000.00 face value of its 5½ per cent first mortgage bonds or as an alternative, \$900,000.00 face value of its 5½ per cent one-year notes, such bonds to be sold for cash at not less than 94 or, if pledged as security for notes to be delivered in payment thereof at not less than 92½, the proceeds from the bonds or notes to be placed in a special fund and expended on its San Pablo project only as authorized by supplemental orders of the commission.

*W. E. Creed and A. G. Tashira, for Applicant.*

*EDGERTON, Commissioner.*

**OPINION.**

East Bay Water Company asks authority to issue \$900,000.00 of its first mortgage 5½ per cent bonds payable January 1, 1946, or as an alternative, issue \$900,000.00 of one-year 5½ per cent notes, the payment of which is to be secured by the pledging of bonds at such ratio as will make the notes legal investments for savings banks in the state of California.



In a schedule attached to the petition herein, East Bay Water Company reports its estimated construction expenditures upon its San Pablo project from and after January 1, 1918, as follows:

Rock and earth fill in dam, 1,260,000 yards.....	\$529,000 00
Driving outlet tunnel, 9,484 lineal feet.....	189,680 00
Concrete lining of outlet tunnel, 10,125 lineal feet.....	101,250 00
Concrete outlet tower with controlling gates and valves.....	30,000 00
Clearing reservoir site of trees, brush, houses, fences, etc.....	37,000 00
Eight miles of road around reservoir.....	60,000 00
Miscellaneous expenditures covering --Flood control; construction of temporary roads, maintaining roads; construction of temporary wasteways; refilling with earth and rock excavations for temporary wasteways; installing piling and booms for flood protection; construction and maintenance of camp buildings; excavation and concreting tunnel portals; installation of test pits and tunnels.....	94,630 00
Engineering and incidentals.....	130,200 00
Total cost.....	<u>\$1,171,820 00</u>

At the hearing on this application, Mr. G. H. Wilhelm, chief engineer and general manager of East Bay Water Company, testified that all of the foregoing estimated construction expenditures, with the exception of those for road, miscellaneous and engineering purposes, were based upon actual contract prices. For the purpose of paying in whole or in part the expenditures upon its San Pablo project incurred from and after January 1, 1918, applicant desires to issue \$900,000.00 of bonds. G. H. Wilhelm is of the opinion that the issue of \$900,000.00 of bonds will enable applicant to complete its San Pablo project with the exception of the construction of a filtration plant. He estimates the cost of the filtration plant at approximately \$400,000.00.

Reference is here made to Decision No. 5072 dated January 28, 1918, wherein the commission authorized East Bay Water Company to issue \$462,000.00 of its 5½ per cent bonds, and to decision referring to Application No. 3505 authorizing East Bay Water Company to issue \$218,084.71 of its first mortgage bonds. The latter decision contains a statement showing applicant's assets and liabilities as of December 31, 1917, also a statement showing applicant's revenues and expenses for the year 1917.

In the event that applicant is unable to sell upon favorable terms the \$900,000.00 of bonds which it now desires to issue, it proposes to issue in lieu thereof \$900,000.00 of 5½ per cent one-year notes. The payment of these notes it intends to secure by the pledging of bonds at such ratio as will render the notes legal investment for savings banks. Applicant reports that it has made arrangements with bankers to

obtain a loan of \$750,000.00 to be represented by notes issued for a term of one year. Under the agreement with the bankers, applicant may at its option pay the notes either in cash or in bonds at 93½ and accrued interest if the bonds are legal investment for savings banks at the time the option is exercised, or at 92½ and accrued interest if the bonds are not legal investment for savings banks at the time the option is exercised. In view of this arrangement with the banks, I am of the opinion that applicant should be permitted at this time to issue \$900,000.00 of its first mortgage 5½ per cent bonds, to sell the same for cash at not less than 94 per cent and accrued interest or to deliver the same in payment of notes at not less than 92½ per cent and accrued interest. I am further of the opinion that in view of applicant's agreement with various bankers, it may be permitted to pledge the bonds herein authorized in such ratio as will render the notes issued pursuant to the order herein legal investments for savings banks. I believe, however, that the collateral trust agreement under which the notes will be issued or the notes themselves should contain a proviso permitting the company to pay the notes at its option in lieu of cash in bonds at not less than 92½ per cent and accrued interest.

While applicant under the provisions of the Public Utilities Act may issue notes for a term of one year without an order from the Railroad Commission, it asks that the commission authorize the issue of the notes. It intends to issue the notes only in the event that it is unable to sell its bonds. The proceeds from the issue of the notes will be used for the same purpose for which it contemplates to use the proceeds from the sale of the \$900,000.00 of bonds.

I herewith submit the following form of order:

East Bay Water Company having applied to the Railroad Commission for authority to issue \$900,000.00 face value of its first mortgage 5½ per cent bonds payable January 1, 1914, or as an alternative, \$900,000.00 face value of 5½ per cent one-year notes, a public hearing having been held and the Railroad Commission being of the opinion that the moneys, property or labor to be procured or paid for by the issue of the bonds or notes is reasonably required for the purpose or purposes specified in the order herein, and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that East Bay Water Company be and it is hereby granted authority to issue \$900,000.00 of its first mortgage 5½ per cent bonds payable January 1, 1946, or as an alternative, \$900,000.00 of 5½ per cent one-year notes, upon the following conditions:

1. The bonds herein authorized to be issued shall be sold by applicant for cash at not less than 94 per cent of their face value plus accrued interest or shall be delivered by applicant at not less than 92½ per cent of their face value plus accrued interest in payment for notes issued under the provisions of this order. In lieu of selling said bonds, applicant may pledge the same to secure the payment of the one-year notes herein authorized to be issued at such ratio as will render said notes legal investments for savings banks.

2. The notes herein authorized to be issued shall be sold by applicant for cash at par.

3. The collateral trust agreement under which applicant will issue the notes herein authorized or the notes issued pursuant to the authority herein granted, shall contain a provision authorizing East Bay Water Company to pay said notes at its option in lieu of cash in first mortgage bonds at not less than 92½ per cent of their face value plus accrued interest.

4. The proceeds obtained from the sale of the bonds or notes herein authorized to be issued shall be deposited by applicant in a special fund and used to finance in whole or in part its expenditures upon its San Pablo project from and after January-1, 1918. No part of said proceeds shall be expended until applicant has filed with the Railroad Commission a statement showing its expenditures on said project since January 1, 1918, and has obtained from the Railroad Commission a supplemental order authorizing the use of the proceeds from the sale of the bonds or notes herein authorized to be issued.

5. East Bay Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds or notes herein authorized to be issued and on or before the twenty-fifth day of each month shall make verified reports to the Railroad Commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

7. The authority herein granted shall apply only to such bonds and notes as shall be issued on or before December 31, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifth day of April, 1918.

## DECISION No. 5282.

MARK E. HILTON ET AL.

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 1150.

*Decided April 5, 1918.*

Complainants petition the commission to compel defendant company to stop all of its interurban trains at Florence avenue for the purpose of taking on and discharging passengers and to reduce the speed of all trains crossing Florence avenue, a point south of the southerly limits of the city of Los Angeles.

Investigation showing that the service rendered by defendant company's Watt-Annandale-South Pasadena local line is of sufficient frequency to properly serve traffic destined to or originating at Florence, that the speed of interurban trains is restricted to twenty miles per hour which restriction is shown to be observed by all motormen passing such crossing, which crossing is protected by an automatic flagman, and is not unduly dangerous, complaint dismissed.

*Griffith Jones and Warren Williams*, for Complainants.

*Frank Karr*, for Defendant.

LOVELAND, *Commissioner*.

## OPINION.

Complainants, residents in the portion of Los Angeles County adjacent to and served by the Florence avenue station of the Pacific Electric Railway Company, allege that the operation of the cars and trains of the Pacific Electric Railway across Florence avenue is conducted at a high rate of speed; that interurban cars do not stop at Florence avenue to take on and discharge passengers and that passengers desiring to journey to or from points reached by the interurban system of the Pacific Electric Railway Company are compelled to take local cars to either Los Angeles or Watts and at such points transfer to the interurban cars and trains; that Florence avenue is the logical and practical point at which the residents of the community should be permitted to board and leave the interurban cars and that a stop should be made at such point.

Complainants ask that the commission make its order compelling the stopping of all interurban trains at Florence avenue for the purpose of taking on and discharging passengers, and that the speed of all through cars be reduced to such rate as may in the opinion of the commission be considered reasonable and safe.

The defendant, Pacific Electric Railway Company, filed answer denying the material allegations of the complaint.

A public hearing was held at Los Angeles on November 23, 1917, the matter was duly submitted and is now ready for decision.

The station of Florence avenue is located in Los Angeles County south of the southerly city limits of the city of Los Angeles and between the stations of Florence Park and Nadeau. The Pacific Electric Railway Company operates a four-track line between the junction of its private right of way at Ninth street and Central avenue, Los Angeles, to Watts, the two inner tracks being used by the through trains of the Long Beach, Newport Beach, Redondo, San Pedro, Whittier and La Habra lines. These trains make no local stops excepting at Vernon avenue, Los Angeles, where a safety stop is made before crossing the tracks of the Los Angeles Railway Corporation. The two outside tracks are used by the freight trains and for the local service between Watts and Los Angeles as cared for by the Watts-Annandale-South Pasadena line local cars serving all stops between Los Angeles and Watts.

Witnesses for complainants testified that Florence avenue was an extremely busy crossing and that it was used by an average of nine hundred (900) automobiles on week days and approximately fifteen hundred (1,500) on Sundays. The estimated speed of through cars over the crossing, as observed by various witnesses, ranged from twenty-five to forty miles per hour. Several accidents have occurred at this crossing which it was thought would have been avoided had a speed restriction been imposed or if all trains, both through and local, were required to stop at Florence avenue. Witnesses testified that the schedule of the Watts-Annandale-South Pasadena line was not dependable and that frequently intending passengers were required to wait long periods before the arrival of a car destined Los Angeles, and that frequently the operation of freight trains on the outside or local tracks interfered with the schedules of the local cars. About one thousand people reside in the district which is served by the Florence avenue stop, and witnesses testified that it was not convenient for passengers destined to or from any point beyond Watts and served by the through trains which did not stop at Florence avenue to be obliged to use the local cars to and from Watts, and there transfer to the through cars. Complaint also existed that the advantage of special excursion rates from Los Angeles to beach points was not available to Florence avenue patrons as it was necessary to pay the local fare to and from Watts in order to board the beach trains.

The Pacific Electric Company provides service on the local line serving Florence avenue on a five minute headway from 6.00 to 8.55 a.m.; on a ten minute headway from 8.55 a.m. to 3.35 p.m.; on a five minute headway from 3.35 to 6.15 p.m.; on a ten minute headway from 6.15 p.m. to 12.05 a.m. with service through the early morning hours on a varying headway from fifteen-minute to one-hour intervals.

In addition extra trips are provided out of Los Angeles on week days (except Saturdays) between the hours of 4.47 and 5.37 p.m., which reduces the interval between local trains to a two and one-half minute headway. Some difficulty had been experienced due to the operation of freight trains on the local tracks, notwithstanding that the freight trains were scheduled at the same speed as the passenger trains. Congested conditions at the approach to the Central avenue yard in Los Angeles have delayed the movement of northbound freight trains into the yard and have resulted in some delay to early morning trains arriving at Los Angeles. These conditions will be corrected when some track revision is completed which will provide better means of access to the Central avenue freight yards.

The through trains of the Pacific Electric Railway using the inside tracks at Florence avenue serve the Long Beach, San Pedro via Gardena and via Dominguez, Newport, Santa Ana, and Redondo via Gardena lines. The great volume of traffic over the lines between Los Angeles and Watts was the reason for the construction of two additional tracks for the handling of the through trains and even with the facility afforded by the additional tracks and the elimination of stops between Los Angeles and Watts by the through trains the time consumed by trains between Los Angeles and Long Beach is now from five to six minutes greater than was used at the time the line was first opened. This is due to the great volume of traffic that has developed incidental to the settlement of the various communities served by the southern division of the Pacific Electric Railway Company. In addition to the regular traffic on the lines above mentioned, there are a number of extra trains being operated for the transportation of employees of the various shipbuilding plants at Wilmington, Long Beach and San Pedro.

The records of the Pacific Electric Railway indicate that a total of 549,706 passengers were transported during the month of October, 1917, on the through trains passing Florence avenue on the inside tracks, all of whom would have been delayed if an additional stop were to be authorized at that point.

The complaints regarding irregularity of service on the local line do not appear from the evidence to have been present during the months immediately preceding the hearing and I am not convinced that they have occurred in the past with sufficient frequency to justify an order as to a revision of the method of conducting the local service. The schedule that is effective offers service with a frequency, especially during the rush hours of the morning and evening, that is practically the same as street car service, in fact, better than the service enjoyed by many communities of greater population. As to the speed of the

through cars operating over the inside tracks at Florence avenue, the Pacific Electric Railway Company have a special rule in the timetable of their southern division which restricts the speed of trains crossing Florence avenue to twenty miles per hour. The speed of cars is frequently checked by inspectors and an exhibit was filed consisting of twenty-three test reports showing surprise tests on through trains made during the months of September, October and November, 1917, and all the reports indicate that the speed restriction was observed by motormen of the through trains.

As to the matter of accidents which have occurred at Florence avenue crossing and the safety that would be provided if all trains, through and local, were to be required to stop before crossing Florence avenue in either direction, the crossing is protected by a standard automatic wigwag signal and bell which furnishes visible and audible warning of the approach of trains and cars. Investigation has been made by the commission of all fatalities that have occurred at this crossing during the last four years, and in no case has it appeared that the accident was one for which the railway company was responsible or that could have been avoided by any action on the part of the company or its employees. I can not recommend the establishment of a regulation that would require the stopping of all trains at any particular highway crossing when such regulation does not appear necessary and especially when such regulation would result in the slowing down of schedules and inconvenience over a half million through passengers per month.

After careful consideration of all the evidence in this case, I am of the opinion and find as a fact that the service now rendered by the Pacific Electric Company on its Watts-Annandale-South Pasadena line is of sufficient frequency to properly serve the stop at Florence avenue, and that no showing has been made which would justify an order requiring all trains, both through and local, to stop at Florence avenue for the purpose of receiving and discharging passengers. I am also of the opinion and find as a fact that the speed regulation now imposed by the Pacific Electric Railway Company and which requires speed of trains to be reduced to twenty miles per hour when crossing Florence avenue is a reasonable and proper regulation, and that such speed is not excessive or dangerous to the public using the highway crossing at such point.

I recommend the following form of order:

**ORDER.**

A public hearing having been held in the above-entitled proceeding, the matter having been duly submitted and the commission being fully advised, and basing its order on the findings of fact as set forth in the preceding opinion.

*It is hereby ordered* that this complaint be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifth day of April, 1918.

DECISION No. 5283.

IN THE MATTER OF THE APPLICATION OF BAYOU VISTA DITCH COMPANY FOR AUTHORITY TO ISSUE STOCK AND FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY; AND OF THE TRUSTEES IN LIQUIDATION OF THE TULARE LAKE CANAL COMPANY FOR AUTHORITY TO CONVEY AN IRRIGATION SYSTEM.

Application No. 3466.

*Decided April 6, 1918.*

Trustees of The Tulare Lake Canal Company authorized to transfer the irrigation properties formerly operated under the above name to the Bayou Vista Ditch Company which latter company is authorized to issue 250 shares of stock of the par value of \$100.00 in exchange therefor, such stock to be prorated among stockholders of the old company upon surrender and cancellation of the old stock. Bayou Vista Ditch Company granted a certificate permitting the operation of the properties which it is herein authorized to acquire.

*Chas. G. Lamberson, of Lamberson, Burke & Lamberson, for Applicant.*

BY THE COMMISSION.

**OPINION.**

The board of directors of The Tulare Lake Canal Company, a defunct corporation, acting as trustees for the stockholders and creditors of said corporation in liquidation, seeks authority to convey its irrigating system in Tulare County to Bayou Vista Ditch Company, a corporation with a capital stock of \$50,000.00, divided into 500 shares of the par value of \$100.00 each, organized for the purpose of acquiring the property; and the new corporation applies for authority to issue stock for the property and seeks a certificate that public convenience and necessity require it to operate the system.

A public hearing upon the application was held by Examiner Westover at Angiola, Tulare County.

The Tulare Lake Canal Company was incorporated in 1891 with a capital stock of \$50,000.00, divided into 500 shares of the par value of \$100.00 each, for the purpose of diverting water out of the Tule River or Elk Bayou, in Tulare County, at a point near the center of section 33, township 21 south, range 23 east, M. D. B. and M., and



using the waters for the irrigation of lands belonging to the incorporators and others. Two main canals were constructed, one known as the East ditch, extending from the point of diversion southeasterly to a point near the center of the east line of section 22, township 22 south, range 23 east, and thence due south to the south line of the township, where it connects with the canal of the Kings County Canal Company; the other known as the West ditch, extending south through the center of sections 4, 9, 16, 21 and 28 in said township 22, and thence southeasterly to the south line of the township. Three laterals lead west from the West ditch, two of which extend to the west line of the township, and the third extends westerly along the south line of the township.

The weir and headgate of wood and the West ditch, were built about 1892, and now irrigate about 3,700 acres. The East ditch was built about 1897 and now irrigates about 300 acres.

The corporate existence of The Tulare Lake Canal Company was terminated on February 28, 1914, because of the failure of the corporation to pay its corporation tax for the year 1913. When the stockholders sought to revive its corporate existence they found that the name had been taken by a new corporation subsequently formed. They were obliged to form a new corporation and they therefore organized the applicant, Bayou Vista Ditch Company, with a like capital of \$50,000.00 divided into 500 shares of the par value of \$100.00 each, which they now wish to issue to stockholders in the original company in exchange for their stock in said The Tulare Lake Canal Company, on the basis of share for share.

The cost of construction of canals, ditches or structures is not known. A rough estimate by applicants of the original cost of canals and ditches is \$10,000.00 and of the original wooden weir and headgates about \$2,000.00. The control of The Tulare Lake Canal Company was acquired a few years ago by the purchase of  $291\frac{2}{3}$  of its 500 shares of capital stock for the sum of \$7,000.00. The purchasers installed a new cement weir and headgates, replacing the wooden structure which had been washed out, at a cost of \$5,234.64, which was advanced by three of the purchasers in equal portions and for which, with interest, they have a claim against the old company, and which the new company will assume. This work was done in the winter of 1914-15. In the winter of 1917-18 new structures were placed in the West Ditch, replacing those which had rotted out, at a cost of about \$1,200.00; and the canals and ditches were cleaned and scraped in 1916 at a cost of about \$1,100.00, so that the system is now in good condition. There was also expended \$233.45 for attorney's fees and expenses in connection with

the prosecution of a suit involving the title to the right of way of the West ditch.

The testimony shows that there is water in the bayou or river for a month or two about four seasons out of five, and in other seasons no water at all; also that in a stipulated judgment in an action involving the rights of appropriators above applicant's weir and headgates it is provided that all of the water is permitted to flow down to applicant's diverting weir between March 22 and April 10 in each year, which it is said the evidence in said case showed would usually include the period of greatest flow. The system has never furnished water for more than 4,000 acres, and generally for one irrigation only, but some lands have been irrigated twice and in a few instances three times in a season. The river or bayou is usually dry the remainder of the season, but frequently overflows, during rainy seasons. No measurement of water has been made, but it is estimated by applicants that 100 and 50 cubic second-feet, respectively, have frequently been seen flowing in the ditches, during the limited season.

The rate heretofore charged to patrons of the system is 50 cents per acre per irrigation. Applicant wishes to establish the same rate. It will be unnecessary to make any order on this feature of the application as this can be done by filing schedule. The property also earns a rental from Kings County Canal Company of 25 cents for each acre irrigated by the latter with its water conveyed through the East ditch under a ten-year agreement dated November 18, 1904.

It seems unnecessary in this case to make a valuation of the property in question. Considering the amount paid for 291 $\frac{1}{2}$  shares, the cost of constructing weir and headgates and the expense of litigation concerning right of way, we will authorize the issue of stock of the par value of \$25,000.00. The particular reason for incorporating the new company with an authorized capital of \$50,000.00 was so that stock in the old company might be exchanged for stock in the new company on the basis of share for share. However, stockholders in the old company will readily see that the value of their property remains relatively the same no matter how many shares are issued to represent it. Each stockholder of the old company receiving the shares of the new company in the proportion set forth in the order will possess the equivalent value of his old stock, have the same voting power, and will own the same proportion of the system which was incident to the ownership of the stock in the old company.

The lands served by the system in question are not served by any other present system.

No franchise to cross public roads appears to be necessary as the existing canals and ditches were constructed before the present roads in the locality were laid out.

**ORDER.**

The board of directors of The Tulare Lake Canal Company, a defunct corporation, acting as trustees for the stockholders and creditors of said corporation in liquidation, having applied to the Railroad Commission for authority to convey its property to Bayou Vista Ditch Company, a corporation, and the latter corporation having applied for authority to issue its stock for the purpose of acquiring said property and for certificate that public convenience and necessity require it to operate the irrigation system so acquired, and a public hearing having been held, and in the opinion of the Commission the property to be procured or paid for by such issue of stock is reasonably required for the purposes specified in the order, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Chas. G. Lamberson, A. V. Taylor, Nis Hansen, Louise D. Tennent and George Hanna, acting as trustees in liquidation for The Tulare Lake Canal Company, and its stockholders and creditors, are hereby authorized and empowered to convey to Bayou Vista Ditch Company, a corporation, the property described in Exhibit "A" attached hereto.

Bayou Vista Ditch Company, a corporation, is hereby authorized and empowered to issue 250 shares of its capital stock of the par value of \$100 each to the persons named below upon the surrender and cancellation of two (2) shares of the capital stock of The Tulare Lake Canal Company, incorporated October 10, 1891, for each share of stock of Bayou Vista Ditch Company herein authorized to be issued.

Said stock hereby authorized shall be issued to the following persons and in the amounts set opposite their respective names, to wit:

Chas. G. Lamberson.....	20 $\frac{1}{2}$
A. V. Taylor.....	20 $\frac{1}{2}$
Nis Hansen .....	41 $\frac{1}{2}$
W. A. Crammer .....	20 $\frac{1}{2}$
Louise D. Tennant.....	20 $\frac{1}{2}$
Alan Gardner .....	12 $\frac{1}{2}$
H. J. Whitley .....	8 $\frac{1}{2}$
George Hanna .....	$\frac{1}{2}$
Corcoran Land Co. ....	57 $\frac{1}{2}$
Mercantile Trust Co. ....	20 $\frac{1}{2}$
Bela Adams .....	4 $\frac{1}{2}$
Easton Mills .....	20 $\frac{1}{2}$
Total .....	250

The proceeds of the stock above authorized to be issued shall be used for the purpose of procuring the irrigation system in Tulare County, formerly owned and operated by The Tulare Lake Canal Company,

needed by said Bayou Vista Ditch Company in the conduct of its business of distributing irrigation water as a public utility water corporation.

The Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by Bayou Vista Ditch Company of the irrigation system in Tulare County, formerly owned and operated by The Tulare Lake Canal Company, a description of which said system is contained in Exhibit "A" attached hereto.

The conditions upon which the authority to convey property and to issue stock are herein granted is as follows:

1. The authority to convey property shall apply only to such property as shall hereafter be conveyed within sixty (60) days from date hereof.

2. Within ten (10) days after said conveyance has been executed and delivered, Bayou Vista Ditch Company shall file with the Railroad Commission a copy of said conveyance as hereafter executed.

3. The authority to issue stock shall apply only to such stock as shall have been issued within six months from date hereof.

4. During the period in which the stock herein authorized to be issued is being exchanged for said stock of The Tulare Lake Canal Company, Bayou Vista Ditch Company shall make verified report to the Railroad Commission on or before the twenty-fifth day of each month of the stock issued and stock surrendered and canceled, in substance and form as required by General Order No. 24, which order, in so far as applicable, is made part hereof.

5. Nothing herein contained shall be construed as a finding by the Railroad Commission of the value of the property herein authorized to be conveyed for any purpose in any proceeding before this commission or any public tribunal or court.

Dated at San Francisco, California, this sixth day of April, 1918.

#### EXHIBIT "A."

Being a description of property to be conveyed to Bayou Vista Ditch Company.

"A diverting weir across the channel of Tule River or Elk Bayou near the center of Section 33, in Township 21 south, range 23 east, Mt. Diablo Base and Meridian, and two diverting ditches taking out of the channel of said stream therefrom and running thence in a southerly and southeasterly direction to the south line of Township 22 south, range 23 east, Mt. Diablo Base and Meridian. One of said ditches being known as the East ditch and running South from the center of said Section 33 as aforesaid to the quarter section corner between Sections 9, and 10, in Township 22 South, Range 23 East, Mt. Diablo Base and Meridian, and running thence in a Southeasterly direction to a point about the center of the East boundary line of the Northeast quarter of Section 22, in said last named Township and Range, and thence South upon the section line between Sections 22 and 23, 26 and 27, 34 and 35,

in said last named Township and Range. The other of said ditches being known as the West ditch and running from the point of diversion above the said weir in the channel of said stream, near the center of Section 33, as aforesaid, in a south-westerly direction to the center of the North boundary line of Section 4, in Township 22 South, Range 23 East, Mt. Diablo Base and Meridian, and running thence South through the center of Sections 4, 9, 16, 21, 28 and 33 to the South boundary line of said Township 22 South, Range 23 East, Mt. Diablo Base and Meridian, all in the said County of Tulare, State of California.

TOGETHER with all and singular the rights acquired by the said Tulare Lake Canal Company to divert water from the channel of Tule River or Elk Bayou near the center of said Section 33 as aforesaid, which the said Tulare Lake Canal Company" and its succeeding trustees have had and enjoyed ever since the incorporation of said corporation, about the 10th day of October, 1891.

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DECISION No. 5285.

IN THE MATTER OF THE APPLICATION OF S. M. WALKER TO MORTGAGE PUBLIC UTILITY PROPERTIES AND ISSUE A NOTE.

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Application No. 3583.

*Decided April 6, 1918.*

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Applicant applies for permission to issue a five- or ten-year note in the sum of \$15,000.00 for the purpose of discharging indebtedness amounting to \$11,383.39 and to install improvements at an estimated cost of \$2,100.00, and there appearing to be no necessity for the balance of a note of the face value proposed to be issued, applicant authorized to issue a five-year note in the sum of \$13,500.00 and to execute a mortgage securing same, such note to be issued at its full face value, proceeds to be used for purposes specified.

*S. M. Walker, in propria persona.*

LOVELAND, *Commissioner.*

OPINION.

S. M. Walker asks authority to issue a \$15,000.00 note and to mortgage his public utility water plant to secure the payment of the note. A copy of the proposed mortgage is attached to the petition herein.

By Decision No. 4169, dated March 7, 1917 (Vol. 12, Opinions and Orders of the Railroad Commission of California, page 662), the Railroad Commission authorized S. M. Walker to transfer his public utility properties to the Baldwin Park Domestic Water Company in exchange for \$35,000.00 of stock and \$6,000.00 of bonds. On May 3, 1917, at the request of S. M. Walker, the commission rescinded its order of March 7, 1917, with the result that S. M. Walker still owns the public utility properties referred to in the commission's Decision No. 4169. The testimony shows that subsequent to March 7, 1917, S. M. Walker has acquired additional public utility properties.

It appears in Decision No. 4169 that Mr. Armstrong, assistant engineer for the commission, estimated the actual cost of the public utility properties as of December 15, 1916, plus an allowance of 10 per cent for overhead, to be approximately \$37,725.00.

For the year ending December 31, 1916, S. M. Walker reported operating revenues amounting to \$6,257.14, operating expenses amounting to \$4,587.61, leaving a net revenue of \$1,669.53. For the year ending December 31, 1917, he reported his operating revenues at \$6,927.41, the operating expenses at \$6,192.90, leaving a net operating revenue of \$734.51. The operating expenses for each year include an allowance of \$600.00 for depreciation. On December 31, 1916, he reported the number of meters at 145 and on December 31, 1917, at 215.

The testimony shows that S. M. Walker has made no definite arrangements to borrow \$15,000.00. He is of the opinion that he can obtain this money at an interest rate of 6 per cent per annum. He desires to issue either a five- or ten-year note secured by a mortgage covering his public utility water properties. A copy of the proposed mortgage is attached to the petition herein. The mortgage is of the standard form. The testimony shows that his public utility properties are free of all liens and encumbrances.

In Exhibit No. 1, S. M. Walker reports indebtedness of \$11,383.39. He further reports that it will be necessary to expend \$250.00 to improve the power house as instructed by the health department, \$350.00 to overhaul the plant and \$1,500.00 to finish the State street and Covina boulevard lines, making a total of \$2,100.00 to be expended to improve and extend the system. The indebtedness plus the cost of improvements and extensions amounts to \$13,483.39. S. M. Walker proposes to use the proceeds obtained from the issue of the proposed \$15,000.00 note to pay the indebtedness set forth in Exhibit No. 1 and to pay for the improvements and extensions referred to therein. After making these expenditures, he would have on hand a balance of \$1,516.61. At the hearing he was unable to inform the commission as to the specific purposes for which this balance would be expended. The \$11,383.39 of indebtedness reported in Exhibit No. 1 includes \$7,287.21 advanced by S. M. Walker. The testimony is to the effect that all the \$11,383.39 of the indebtedness has been incurred in the construction and operation of the water plant.

Under the facts and circumstances as presented, I am of the opinion that S. M. Walker should be granted authority to issue a five-year 6 per cent note, having a face value of not in excess of \$13,500.00, and to execute a mortgage to secure the payment of the note.

I herewith submit the following form of order:

**ORDER.**

S. M. Walker having applied to the Railroad Commission for authority to issue a \$15,000.00 note and to execute a mortgage, a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order,

*It is hereby ordered* that S. M. Walker be and he is hereby granted authority to issue a five-year 6 per cent note having a face value of not to exceed \$13,500.00 and to execute a mortgage substantially in the same form as the mortgage attached to the petition herein to secure the payment of the note herein authorized, all upon the following conditions:

1. The note herein authorized to be issued shall be issued at not less than the face value thereof.

2. The proceeds obtained through the issue of the note shall be used for the purpose of paying the indebtedness set forth in Exhibit No.1, and the cost of improving and extending the water system therein referred to.

3. The approval herein given of said mortgage is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

4. S. M. Walker shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the note herein authorized to be issued, and on or before the twenty-fifth day of each month shall make verified reports to the commission showing the moneys realized from the issue of the note and the use and application of such moneys, all in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted is conditioned upon the payment of the fee prescribed by the Public Utilities Act.

6. The authority herein granted to issue a note shall apply only to such note as may be issued on or before August 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixth day of April, 1918.

## DECISION No. 5302.

IN THE MATTER OF THE APPLICATION OF LUCERNE WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF FORTY-NINE THOUSAND NINE HUNDRED FIFTY DOLLARS OF CAPITAL STOCK.

Application No. 3574.

*Decided April 12, 1918.*

Applicant authorized to issue \$49,950.00 par value of its capital stock, all of such stock to be issued to the Mount Shasta Land and Irrigation Company in exchange for the irrigation plant and system constructed by the latter named company, which is to be transferred to applicant free of all incumbrances.

*Winfield Dorn*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Lucerne Water Company, a public utility corporation, with a capital stock of \$50,000.00 divided into 5,000 shares of the par value of \$10.00 each, seeks authority to issue all but 5 shares of its capital stock to liquidate an indebtedness incurred in the construction and acquisition of its plants and system. The remaining 5 shares were issued to qualify directors.

A public hearing in the matter was held by Examiner Westover at San Francisco.

By Decision No. 3712 of September 26, 1916, the commission declared that public convenience and necessity required the construction of the system in question for the purpose of irrigating territory described in said application, consisting of about 4,200 acres near Grenada, Siskiyou County (See Vol. 11, Opinions and Orders of the Railroad Commission of California, p. 370).

Since that time Mount Shasta Land and Irrigation Company, which is engaged in marketing the land referred to, but not in operating a water system, has constructed a series of pumping plants, canals and laterals, for the account of applicant, by which water is pumped from the Shasta River and distributed to the lands in question. The amount expended for construction purposes to December 31, 1917, was \$43,253.37, as shown by the books of both companies.

It is estimated that the cost of completion will amount to \$12,000.00 or \$15,000.00, of which about \$10,000.00 has been expended since December 31, 1917. Besides the above expenditures, real estate devoted to pumping, transmission and distribution operations valued by applicant at \$4,091.45, is also to be conveyed to applicant, the entire completed plants and system, with the necessary real estate, to be turned over to it free from debt.



## ORDER.

Lucerne Water Company, a corporation, having applied to the Railroad Commission for authority to issue stock, and a public hearing upon said application having been held, and it appearing that the property to be procured by the issue of said stock is reasonably necessary for the purposes specified in this order, which purposes are not in any part chargeable to operating expenses or to income,

*It is hereby ordered* that Lucerne Water Company, a corporation, be and it is hereby authorized and empowered to issue 4,975 shares of its capital stock of the par value of \$10.00 per share to Mount Shasta Land and Irrigation Company or its assigns for the purpose of paying in full for irrigating plants and system constructed near Grenada, Siskiyou County, California, and for the land used or useful in operation of said plants and system, and in liquidation of all indebtedness to said Mount Shasta Land and Irrigation Company or others, incurred in the acquisition or construction of said property.

The authority herein granted is upon the following conditions:

1. Said plants, system and real estate shall be conveyed to Lucerne Water Company free of all encumbrance, liens or charges by suitable conveyance or conveyances.

2. This authority applies only to such stock as may be issued on or before ninety days from date.

3. Within ten (10) days after said stock has been issued, Lucerne Water Company shall furnish to the commission certified copy of conveyances received by it for said property for which said stock is to be issued, and shall make verified report to the commission of the fact and date of issue of said stock and the person or persons to whom it is issued.

Dated at San Francisco, California, this twelfth day of April, 1918.

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Decision No. 5303.

IN THE MATTER OF THE APPLICATION OF THE OAKDALE GAS COMPANY TO INCREASE RATES.

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Application No. 3519.

*Decided April 12, 1918.*

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Due to the material increase in the cost of oil a revised schedule of rates is established for the system of applicant in Oakdale and Riverbank, such schedule to become effective for meter readings made on and after May 1, 1918.

*G. W. Anderson*, for Applicant.

*F. W. Reeder*, city attorney, for city of Oakdale.

*J. C. Fountain*, for consumers of town of Riverbank.

*Mrs. A. Emerald*, *in propria persona*.

BY THE COMMISSION.

### OPINION.

This is the application of the Oakdale Gas Company asking authority to increase its rates charged for gas.

Applicant's gas properties consist of an artificial gas plant located in Oakdale, a transmission line from Oakdale to Riverbank and distribution systems in Oakdale and Riverbank.

Applicant alleges in effect that its contract by which it secured oil at 41.5 cents per barrel at the field expired on November 15, 1917, since which date it has been necessary to purchase oil in the open market at a total cost of \$1.865 per barrel at the plant, and it further alleges that under the present cost of oil it will not be able under the existing rates to meet its operating expenses.

A hearing was held before Examiner Encell at Oakdale on March 13, 1918, at which time testimony and evidence in this matter was introduced.

The existing rates charged by applicant for gas are:

Monthly consumption	Gross	Discount if paid by 15th of month	Net
1,000 to 5,000 cu. ft. ....	\$1.75 per M cu. ft.	\$0.25	\$1.50 per M cu. ft.
5,000 to 7,000 cu. ft. ....	1.75 per M cu. ft.	25 and 5%	1.42½ per M cu. ft.
7,500 to 10,000 cu. ft. ....	1.75 per M cu. ft.	25 and 10%	1.35 per M cu. ft.
10,000 to 15,000 cu. ft. ....	1.75 per M cu. ft.	25 and 15%	1.27½ per M cu. ft.
15,000 and over .....	1.75 per M cu. ft.	25 and 20%	1.20 per M cu. ft.

Minimum charge: \$1.00 per meter per month.

The above rates have been in effect since the company's organization in 1913, but during this period the commission has not had occasion to determine their reasonableness.

A valuation has never been made of the properties of the Oakdale Gas Company, however, applicant contends that as it has been under the jurisdiction of the commission during its entire corporate life, and as the accounts have been kept in accordance with the requirements of this commission during that period, that the actual cost of the properties is as set forth in applicant's annual report to this commission.

This indicates a total fixed capital as of December 31, 1917, of \$58,522.45. The financial statement for the year 1917 is as follows:

Total gross revenue .....	\$12,862.76
Operating expenses, exclusive of depreciation .....	10,173.03
Net revenue available for interest and depreciation .....	\$2,689.73
Per cent return for interest and depreciation .....	4.60

The statistics for the year 1917 show the following:

Number of consumers.....	359
Total gas sales.....	9,155,900 cu. ft.
Total oil used.....	3,682 barrels
Gallons of oil per M cubic feet of gas sold.....	16.8

Cost of oil	Per barrel	Per M cubic feet of gas
Contract price .....	\$0.825	\$0.33
Present price .....	1.865	.75
Average revenue .....		1.404

From the above it will be noted that during the year 1917 when a return of 4.6 per cent for interest and depreciation was realized, the average revenue per thousand cubic feet of gas sold was \$1.404. Due to the increased cost of oil alone, it will be necessary for applicant to receive \$1.824 per thousand cubic feet of gas sold to earn the same return for the year 1918 as in 1917, provided no material economies in operation can be made. Applicant's plant is small and its consumers are distributed through two towns which necessarily causes a higher cost of service.

It is apparent that if applicant is not granted relief it will not be able to meet actual operating expenses in the future even with such economies as it may be able to put into effect.

Although the price of fuels other than gas have increased greatly, and in all probability a slight increase in gas rates would not be followed by any considerable reduction in sales, it is highly improbable that as high a rate as would be required to offset the entire increase of oil cost as could be charged without a serious loss of business.

After careful consideration we have selected the rates established in the following order, which it is estimated will return approximately \$1.688 per thousand cubic feet of gas sold. These rates are comparable with rates established in similar cases by the commission, and we believe they will prove more equitable to applicant than would higher rates.

Applicant urges that the discount form of rate, as is in effect at present, be granted in order that the collection expenses will be reduced to a minimum. Although we are not in accord with the present form of discount rates, we have included in the rates a discount which, we believe, will accomplish the desired result.

**ORDER.**

Oakdale Gas Company having applied to increase its gas rates, and hearings having been held and the matter having been submitted and ready for decision, and the Railroad Commission finding as a fact that the existing rates under present conditions of cost of operation are unjust and unreasonable, and further finding as a fact that applicant should be granted authority to increase its rates to those set forth in this order,

*It is hereby ordered* that Oakdale Gas Company be and the same is hereby authorized to charge and collect the following rates for gas. Such rates shall be applicable to all regular meter readings made on or after May 1, 1918, provided Oakdale Gas Company shall have filed with the commission said rates on or before April 15, 1918.

*General Service.*

	Gross	Net
First 500 cubic feet or less per meter per month.....	\$1 10	\$1 00
	Per M cu. ft.	
Next 2,500 cubic feet per meter per month.....	1 80	1 70
Next 5,000 cubic feet per meter per month.....	1 55	1 50
Next 7,000 cubic feet per meter per month.....		1 25
All over 15,000 cubic feet per meter per month.....		1 10

The net rate is effective if the bill is paid on or before the tenth of the month next succeeding that for which the bill is rendered. If the bill is not paid on or before the tenth, the gross charge is effective.

Dated at San Francisco, California, this twelfth day of April, 1918.

**DECISION No. 5306.**

**IN THE MATTER OF THE APPLICATION OF SUSMAN MITCHELL,  
RECEIVER OF THE CENTRAL CALIFORNIA GAS COMPANY, FOR  
AUTHORITY TO READJUST AND INCREASE GAS RATES.**

**Application No. 3553.**

*Decided April 15, 1918.*

Evidence tending to show that applicant's present schedule of rates is unremunerative and that due to the increase in cost of oil and supplies the increased schedule which it proposes to put into effect will not provide what would be deemed a reasonable rate under normal conditions, application granted, the revised schedule to become effective for meter readings made on and after twenty days.

*Power & McFadzen*, by *Daniel McFadzen*, for Applicant.

*E. I. Feimster*, for city of Visalia.

BY THE COMMISSION.

OPINION.

This is an application of the Central California Gas Company for an increase in its rates charged for gas.

The Central California Gas Company, hereinafter referred to as applicant, is at present being operated by Mr. Susman Mitchell, as receiver, he having been appointed as such receiver by an order of the Superior Court of the county of Tulare on July 31, 1917.

Applicant operates an artificial gas plant located in Visalia, a transmission line to Tulare, a second transmission line extending through Exeter, Lindsay, Strathmore and Porterville, and distribution systems in each of the above-mentioned towns.

Applicant alleged in effect that its contract, by which it secured oil at 64 cents per barrel, expired on September 1, 1917, and since this date oil has been secured by a contract at a cost of \$1.68 per barrel at the plant.

Applicant submits a form of rate and prays that same be authorized by this commission, alleging that with the proposed rate in effect, due to the increased cost of oil, it will then be earning less than a 6 per cent return on an alleged investment of \$350,000.00.

Hearing was held at Visalia on March 15, 1917, before Examiner Eucell, at which time testimony and evidence were introduced relative to the rates, operations, financial condition and quality of service supplied by applicant.

The existing rates charged by applicant are as follows:

SCHEDULE "A."  
*General Service.*

Amount	Rate	Discount	Net rate
Minimum .....	\$1 00	\$0 25	\$0 75
First 1,000 cubic feet.....	1 75	25	1 50
Second 1,000 cubic feet.....	1 50	25	1 25
Third 1,000 cubic feet.....	1 40	25	1 15
Fourth 1,000 cubic feet.....	1 20	20	1 00
Fifth 1,000 cubic feet.....	85	-----	85
Sixth to twentieth 1,000 cubic feet, each 1,000 cubic feet .....	85	-----	85
Twenty-first to fortieth 1,000 cubic feet, each 1,000 cubic feet.....	75	-----	75
Forty-first to sixtieth 1,000 cubic feet, each 1,000 cubic feet.....	60	-----	60
For each additional 1,000 cubic feet.....			50

Discounts are made only if the preceding month's bill is paid on or before the tenth of the current month.

## SCHEDULE "B."

Only under a yearly contract whereby the consumer agrees to use not less than 20,000 cubic feet per month for at least twelve consecutive months, the

First 20,000 cubic feet.....	85 cents per thousand
Each 1,000 from the twenty-first to the fortieth thousand	
sand .....	75 cents per thousand
Each 1,000 from the forty-first to the sixtieth thousand.....	60 cents per thousand
For the sixty-first thousand.....	50 cents
For each additional thousand.....	50 cents per thousand
Minimum bill this rate, \$17.00 per month.	

## SCHEDULE "C."

Only under a yearly contract whereby the consumer agrees to use not less than 60,000 cubic feet per month for at least twelve consecutive months, the

First 60,000 cubic feet.....	60 cents per thousand
For the sixty-first thousand.....	50 cents
For each additional thousand.....	50 cents per thousand
Minimum bill this rate, \$36.00 per month.	

The commission is familiar with the previous financial difficulties of Central California Gas Company, and it is also familiar with the extreme lack of maintenance and the inefficient method of operating with the resultant poor service which have existed for some months in the past under the former management. Applicant also realized these facts and therefore with a new management and with prospects of relief from its financial difficulties, asks this commission to grant the proposed rates which it alleges, if based upon an efficient operation of applicant's properties and the present price of materials, will return less than what under normal conditions might be considered a fair rate of return on the investment.

Operating statistics for the year 1917 are as follows:

1. Total gas sales.....	83,549,000 cubic feet
Total revenue .....	\$99,868.96
Number of consumers.....	2,858
Barrels of oil used.....	37,449
2. Sales per consumer.....	29,230 cubic feet
Gallons of oil used.....	18.8 per 1,000 cubic feet of gas sold
Cost of oil:	
Oil at 64 cents per bbl.....	\$0.287 per 1,000 cubic feet sold
Oil at 68 cents per bbl.....	.752 per 1,000 cubic feet sold
Net increase, including taxes.....	.492 per 1,000 cubic feet sold
Average revenue .....	\$1.195

Applicant estimates that for the year ending January 31, 1919, its sales will amount to 100,000,000 cubic feet of gas and that its operating expenses will be as follows:

<b>Production expenses:</b>	
Oil at 14.74 gallons per 1,000 cubic feet sold .....	\$58,968 00
Other production expenses .....	16,020 00
Transmission expense .....	4,750 00
<b>Distribution:</b>	
Extraordinary repairs .....	1,200 00
Other expenses .....	8,600 00
Commercial expense .....	4,800 00
General and miscellaneous expenses .....	14,400 00
Taxes .....	8,750 00
<hr/>	
Total operating expenses .....	\$117,488 00
<b>Fixed charges:</b>	
Interest, 6 per cent on \$350,000.00 .....	21,000 00
Depreciation, 3 per cent on \$350,000.00 .....	10,500 00
<hr/>	
Total expenses .....	\$148,988 00

Applicant submits a proposed rate schedule which is as follows:

First 500 cubic feet or less .....	85 cents, gross; 75 cents, net
Per 1,000 cubic feet, per meter, per month:	
Next 4,500 cubic feet .....	\$1.60, gross; \$1.50, net
Next 5,000 cubic feet .....	1.45, gross; 1.40, net
Next 5,000 cubic feet .....	1.25, net
Next 10,000 cubic feet .....	1.10, net
All over 25,000 cubic feet .....	1.00, net

Applicant states that it would realize approximately \$145,570.00 with the above rate in effect for the year ending January 31, 1919. A careful analysis of applicant's rates made by the commission's engineers indicates that the estimate of the revenue which will be derived from the above rates is approximately correct.

In view of the present conditions of applicant's properties and extensive repairs that will be necessary before efficient operations can be expected, we believe that the above estimates are reasonable.

Several valuations of these properties have been made both by the gas and electric division of this commission and by parties representing the Central California Gas Company. However, there has never yet been a valuation made for rate-making purposes.

In view of the present emergency conditions, and after a careful analysis of the aforementioned valuations which are in evidence in this matter, we have used as a rate base the amount (\$350,000.00) set forth in the application, but it should not be understood that in the use thereof we are passing upon the fair value of the properties.

It is evident from the facts set forth in this opinion that applicant is at present serving gas at much less than a fair and reasonable rate,

and that with the proposed rates in effect it would still earn less than what might be considered a fair return under normal conditions.

In view of the above findings, we believe that the application should be granted.

### ORDER.

Central California Gas Company having applied for authority to increase its gas rates, and a hearing having been held and the matter having been submitted and is now ready for decision, and the Railroad Commission finding as a fact that the existing rates under present conditions of cost of operations are unjust and unreasonable, and further finding as a fact that applicant should be granted authority to increase its rates to those set forth in the order,

*It is hereby ordered* that Central California Gas Company be and the same is hereby authorized to charge and collect the following rates for gas of the same heat quality as Central California Gas Company has heretofore held itself out to serve. Such rates shall be applicable to all regular meter readings made on or after twenty days after the date of this order, provided Central California Gas Company shall have filed said rates with the commission on or before April 20, 1918.

#### *General Service.*

First 500 cubic feet or less, per month	85 cents, gross ; 75 cents, net
Per 1,000 cubic feet, per meter, per month :	
Next 4,500 cubic feet	\$1.00, gross ; \$1.50, net
Next 5,000 cubic feet	1.45, gross ; 1.40, net
Next 5,000 cubic feet	1.25, net
Next 10,000 cubic feet	1.10, net
All over 25,000 cubic feet	1.00, net

The net rate is effective on all bills paid on or before ten days after date of presentation.

Dated at San Francisco, California, this fifteenth day of April, 1918.

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DECISION No. 5307.

J. R. McHENRY

*vs.*

SAN JOAQUIN LIGHT AND POWER CORPORATION.

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Case No. 1198.

*Decided April 15, 1918. •*

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Complainant petitions the commission to compel defendant company to construct an extension to cost approximately \$747.00, so as to enable it to serve him with electric energy to operate a motor for irrigation purposes, and defendant agreeing to do such construction work under its rules governing extensions,



service ordered, provided complainant sign a contract for three-year service, the gross revenue therefrom to equal one-third of the cost to defendant of constructing the extension, including transformers and meters.

*J. R. McHenry, in propria persona.*

*Short & Sutherland, by W. A. Sutherland, for Defendant.*

*THELEN, Commissioner.*

#### OPINION.

The complaint herein alleges that the complainant in October, 1917, requested the defendant to serve him with electric energy for the operation of a  $7\frac{1}{2}$ -horsepower motor to drive a pump for the irrigation of a tract of land in Merced County, but that he had been unable to secure any assistance from the defendant that the service will be rendered.

The answer alleges, in effect, that it will cost \$747.00 to make the necessary extension and that the revenue therefrom will not exceed the sum of \$130.00 annually. The answer also alleges that it is extremely doubtful as to whether defendant will be able to supply electric energy to serve any new customers.

A public hearing was held in Fresno on April 8, 1918, at which time the proceeding was submitted.

The testimony shows that complainant desires to secure from defendant electric energy for the operation of a  $7\frac{1}{2}$ -horsepower motor to irrigate a tract of land in Merced County for the production of beans and corn; that complainant made application for this service to defendant in October, 1917; that complainant has dug his well and has made the necessary arrangements to secure motor and pump; that complainant is ready to sign a three-year contract for six months flat rate continuous service; that defendant would secure, from such contract, an annual revenue of \$210.00; that complainant is willing to pay such portion of the cost of the extension as may be necessary so as to bring him within defendant's usual rule that it will make extensions at its own expense whenever the annual gross revenue therefrom is one-third the cost of the extension; and that complainant asks service in accordance with the order in which his application was filed.

The testimony further shows that the rainfall and snowfall conditions subsequent to the filing of the answer herein have very materially improved and that defendant now no longer takes the position that it will not be able, by reason of lack of power, to serve new applicants for power, of whom there are now more than 350. Mr. A. C. Balch, defendant's vice-president, testified that defendant has on hand sufficient material to make the extensions as required, excepting transformers and that the transformers are being delivered to the defendant in increasing quantities.

In view of complainant's statement that he is willing to place himself within the usual three-to-one rule, defendant stated that it would be willing to serve him in the order of the application which he heretofore made.

The order herein will be based on the agreement of the parties and will in no way prejudice such rule for the making of extensions as may be established by this commission in Application No. 3531, *San Joaquin Light and Power Corporation*, now pending, or in other proceedings.

I submit the following form of order :

**ORDER.**

A public hearing having been held in the above-entitled proceeding and the same having been submitted and being now ready for decision,

*It is hereby ordered* that San Joaquin Light and Power Corporation construct the necessary extension to its electric distributing system and thereafter serve complainant herein with electric energy for the operation of a seven and one-half ( $7\frac{1}{2}$ ) horsepower motor, under a three-year contract for six months flat rate continuous service for the irrigation of the lands described in the complaint herein; provided, that complainant shall place himself in such a position that the gross revenue to be derived by the defendant from said service shall equal one-third of the cost to defendant of making said extension, including transformers and meters; and provided, further, that service shall be rendered to the complainant herein in the order in which his application for service was filed with defendant.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifteenth day of April, 1918.

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DECISION No. 5308.

IN THE MATTER OF THE APPLICATION OF BAY POINT UTILITIES  
COMPANY FOR AN ORDER FIXING WATER RATES AT BAY  
POINT, CALIFORNIA.

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Application No. 3491.

*Decided April 15, 1918.*

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Upon petition of the Bay Point Utilities Company, distributing water in the town of Bay Point and vicinity, the commission establishes a revised schedule of flat and meter rates estimated to return applicant a gross annual revenue of \$7,400.00. Applicant directed to meter all services of the Coos Bay Lumber Company.

*Wm. B. Acton*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Bay Point Utilities Company applies for an order fixing rates for water served for domestic and commercial purposes in Bay Point, Contra Costa County.

Public hearings were held by Examiner Westover at Bay Point, March 11, and San Francisco, March 13, 1918.

Applicant was incorporated with a capital stock of \$15,000.00 divided into 150 shares of the par value of \$100.00 each, for the purpose of acquiring the water plant and system formerly owned and operated by Bay Point Light and Water Company.

Reference is made to Decision No. 3948 (See Vol. 12, Opinions and Orders of the Railroad Commission of California p. 98), which authorized the transfer of the property and issuance of stock. The book cost of the water system testified to in that proceeding was \$21,375.00 and it is now in evidence that additions and betterments built and building will total \$19,532.00, making the total investment \$40,907.00. Seven lots forming part of the property are not used or useful and may be sold. The price obtainable is estimated by applicant at \$1,575.00. Remaining cost of used and useful property is \$39,482.00 which includes all water-bearing lands and rights of way, water rights and intangibles.

Water is developed by pumping from wells and transmitted two miles to a distribution reservoir with 500,000-gallon capacity near the district served. The prevailing flat rate has been \$1.50 per month for residences and stores. The Coos Bay Lumber Company paid \$89.00 per month, this being an arbitrary deviation from rate schedule. Clyde Shipbuilding Company has recently become a patron. The water it uses has been measured, payment being withheld pending this establishment of meter rates.

Applicant indicated that its desire is to install meters and thereby provide automatic adjustment of the charge to the service rendered. The commission has often given approval to this course.

The plant was operated during 1917 by the management of Coos Bay Lumber Company. That concern charged \$2,093.00 to applicant for services of employees, etc., and paid \$1,419.00 direct expense, a total operating expense of \$3,512.00. Gross revenue was \$3,964.00.

It is anticipated that the metering of the entire system and establishment of the rate schedule herein authorized will result in adequate returns. We have considered all the testimony in determining upon the rate which it is estimated will cover the assumed annual charges which we have found proper. The result in figures is as follows:

Maintenance and operation.....	\$2,520 00
General expense .....	900 00
Insurance and taxes.....	350 00
Depreciation .....	480 00
Return on investment of \$39,482.03.....	3,150 00
<b>Total .....</b>	<b>\$7,400 00</b>

The rates found in the order it is estimated by the commission's engineers will prove sufficient to produce needed revenue as above estimated.

#### ORDER.

Bay Point Utilities Company having applied to the Railroad Commission for an order fixing rates to be charged by it for domestic water served to the inhabitants of Bay Point, Contra Costa County, and a public hearing having been held thereon, and the testimony having been submitted to the commission, and the matter being now ready for determination.

The commission hereby finds as a fact that the rates hereinafter set forth are just and reasonable rates and that the rates heretofore charged for water so served in so far as they differ from the rates in this order are unreasonable and unjust.

Basing its order upon the foregoing findings of fact and upon the findings of fact contained in the opinion preceding this order,

*It is hereby ordered* that Bay Point Utilities Company be and it is hereby authorized to establish the following rates for water served in Bay Point, Contra Costa County.

#### I—Flat rates, per month:

1. Stores and offices.....	\$1 50
2. Houses, apartments and rooming houses of 3 rooms or less....	1 25
3. Houses, apartments and rooming houses of 4 rooms.....	1 50
(a) For each additional room.....	15
4. Hotels and clubhouses with dining room.....	2 50
(a) Additional for each bedroom.....	15
5. Restaurants, per seating capacity (minimum, \$1.50).....	075
6. Pool rooms .....	1 25
7. Barber shops .....	1 25
8. Halls .....	1 25
9. Saloons .....	4 00
10. Laundries .....	5 00
11. Theatres .....	2 00
12. Public garages .....	2 50
13. Railway depots, including section and bunk houses.....	4 00
14. Horses and cows, each.....	10

#### II—Meter rates:

First 500 cubic feet used per month, per 100 cubic feet.....	\$0 30
Next 1,500 cubic feet used per month, per 100 cubic feet.....	20
For use above 2,000 cubic feet per month, per 100 cubic feet.....	15

*Monthly minimum for each service metered:*

$\frac{3}{8}$ -inch meter -----	\$1 25
1-inch meter -----	1 75
1½-inch meter and larger-----	2 50

The company is hereby directed to at once install meters upon the service to Coos Bay Lumber Company.

Said applicant is directed to file with its schedule of rates suitable rules and regulations governing the service of water.

Dated at San Francisco, California, this fifteenth day of April, 1918.

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DECISION No. 5309.

IN THE MATTER OF THE APPLICATION OF PAUL MORRIS FOR AN ORDER AUTHORIZING THE SALE OF A TELEPHONE LINE IN TUOLUMNE AND VICINITY, TUOLUMNE COUNTY, CALIFORNIA.

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Application No. 3630.

*Decided April 15, 1918.*

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An individual operating a small telephone exchange can not transfer the same without first securing an order from this commission permitting such action. Application of Paul Morris for permission to sell the Tuolumne Telephone Exchange to George H. Jones and W. T. Gurney granted.

BY THE COMMISSION.

**OPINION.**

Paul Morris, petitioner herein, attempted to transfer a certain telephone system operating as a public utility, known as the Tuolumne Telephone Exchange, to J. A. Livingston during the month of August, 1914. This transfer was made in violation of the provisions of section 51 (a) of the Public Utilities Act requiring an order of the commission permitting the sale by a public utility of property devoted to the public use.

On or about September 1, 1916, J. A. Livingston attempted to resell the Tuolumne Telephone Exchange to George H. Jones and G. B. Naegle, and during the month of September, 1917, the said G. B. Naegle undertook to sell his interest to W. T. Gurney. The authority of the Railroad Commission was not sought prior to any of these transfers.

Applicant alleges that he was not aware that it is necessary for an individual owning and operating a public utility property to secure the approval of this commission before said property can be transferred.

The Tuolumne Telephone Exchange is a small utility operating in the town of Tuolumne, Tuolumne County, and vicinity. An actual inventory of the property of this telephone system has not been made by either the present or former owners, and the commission is without definite knowledge as to the extent or value of same. The petition herein states that, as of August, 1914, the Tuolumne Telephone Exchange consisted of one switchboard, fifty miles of telephone wire, ninety telephones in use and eighteen telephones as supplies on hand. It is alleged that the sum of \$3,000.00 was the fair cash value of this system as of August, 1914, and that the same amount represents its value on December 31, 1917.

This telephone system is operated in conjunction with a general merchandise business. The various transfers hereinbefore referred to covered this merchandise business, together with the Tuolumne Telephone Exchange. The separate consideration paid for this telephone system at each transfer is not shown.

Petitioner states that this telephone system has been conducted carefully and economically and no complaint has been made of the service rendered by it.

We are of the opinion that the public interest will be subserved by the approval of the application and that this is not a case requiring a public hearing.

#### ORDER.

Application having been filed with the Railroad Commission by Paul Morris for permission to sell the Tuolumne Telephone Exchange, as set forth in the preceding opinion, to George H. Jones and W. T. Gurney, and it appearing to the commission that the public interest will be subserved by the granting of this application, and it further appearing that this is not a case in which a public hearing is necessary,

*It is hereby ordered* that the application herein be and it is hereby granted; provided, that the value of this property claimed by petitioner, as set forth in the opinion herein, is not to be taken by this commission or other authority as representing its fair value for rate-making or other purposes.

Dated at San Francisco, California, this fifteenth day of April, 1918.

## DECISION No. 5311.

IN THE MATTER OF THE APPLICATION OF TERRA BELLA CITY WATER COMPANY TO SELL, AND OF THE TERRA BELLA IRRIGATION DISTRICT TO PURCHASE, THE WATER PLANT AND DISTRIBUTING SYSTEM OF TERRA BELLA CITY WATER COMPANY.

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Application No. 3656.

*Decided April 16, 1918.*

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BY THE COMMISSION.

**ORDER.**

Terra Bella City Water Company having applied to the Railroad Commission for authority to transfer to Terra Bella Irrigation District, for the sum of \$10,000.00, its public utility water system used to supply water to the town of Terra Bella for domestic purposes—the property to be transferred consisting of the following described lands:

**REAL ESTATE.**

Those owned by the Terra Bella City Water Company, being situated in the said town of Terra Bella and particularly described as follows:

1. That portion of lot 38 of subdivision No. 2 of Terra Bella lands, as per map recorded in Book 8, page 12 of Maps, in the office of the County Recorder of the county of Tulare, described as follows: Beginning at a point in the south line of said lot 38, 148.70 feet east of the southwest corner thereof; thence west on said line 48.70 feet; thence north 70 feet; thence east 48.70 feet; thence south 70 feet to the place of beginning.

2. That portion of block 7 of Terra Bella, as per map thereof recorded in Book 8, page 10 of Maps, in the office of the County Recorder of the county of Tulare, described as follows: Beginning at the southwest corner of said block 7; thence north along the west line thereof 208 feet, 8½ inches; thence at right angles east 208 feet 8½ inches; thence at right angles south 208 feet 8½ inches; thence to the south line of said block; thence west along said south line 208 feet 8½ inches to the place of beginning.

The said property referred to belonging to the Terra Bella Development Company, and used by said Terra Bella City Water Company, being situated in the town of Terra Bella, and particularly described as follows, to wit:

3. That portion of lot 38 of subdivision No. 2 of Terra Bella lands, as per map thereof recorded in Book 8, page 12 of Maps, in the office of the County Recorder of Tulare County, described as follows: Beginning at a point in the south of said lot 38, which point is 50 feet east of the southwest corner of said lot 38; thence east along the south line 50 feet; thence north 70 feet; thence west to the west line of said lot 38; thence south along said west line 5 feet; then easterly to the point of beginning.

## OTHER PROPERTY.

One 10,000-gallon galvanized iron tank with steel tower for the same. Also well and complete pumping plant. Luitweiler pump, electric motor and pumping house complete.

One 20,000-gallon galvanized steel tank with sixty-foot steel tower, well, Luitweiler pump, electric motor, etc., complete.

9,107 feet 4-inch water pipe.  
 4,033 feet 6-inch water pipe.  
 1,226 feet 3-inch water pipe.  
 732 feet  $\frac{3}{4}$ -inch water pipe.  
 408 feet 2-inch water pipe.  
 30 feet 1 $\frac{1}{2}$ -inch water pipe.  
 34 feet 4-inch O. D. casing.  
 137 feet 6-inch O. D. casing.  
 50 meter covers.  
 4 2-inch meters.  
 1 1 $\frac{1}{2}$ -inch meter.  
 26  $\frac{3}{4}$ -inch meters.  
 12 fire hydrants.  
 1 2-inch gate valve.  
 2 3-inch gate valves.  
 1 4-inch gate valve.  
 1 6-inch gate valve.  
 5 faucets.  
 1 brass surface cock.  
 1 2-inch stop cock.  
 19 service cocks.  
 12  $\frac{3}{4}$ -inch cocks.  
 4 6-inch H. E. gates.  
 18 4-inch H. E. gates.

And Terra Bella Irrigation District having joined in the application herein, and it appearing that the application should be granted,

*It is hereby ordered* that the application herein be and the same is hereby granted; provided, that the authority herein granted to transfer said property shall apply only to such property as is transferred on or before June 30, 1918; and provided, further, that a certified copy of the deed of conveyance executed in accordance with this order shall be filed with this commission within fifteen (15) days after the execution thereof.

Dated at San Francisco, California, this sixteenth day of April, 1918.



## DECISION No. 5314.

IN THE MATTER OF THE APPLICATION OF THE UNION HOME TELEPHONE AND TELEGRAPH CORPORATION FOR AUTHORIZATION TO SELL PROPERTY AND FRANCHISES TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORIZATION TO SELL PROPERTY AND FRANCHISES TO UNION HOME TELEPHONE AND TELEGRAPH CORPORATION.

Application No. 2920.

*Decided April 16, 1918.*

When the financial condition of a public utility is such that the commission could not authorize it to issue bonds to be sold to the public, it will permit their sale to another utility which is fully advised of the value of such securities when the purchase thereof will in no wise affect the rates or service of the purchaser and the bonds will not be sold to the public.

The Railroad Commission does not favor competing telephone systems due to waste, inefficiency and the undue cost of maintaining two systems, and will look with favorable consideration on any equitable agreements towards consolidation of competing systems with its resultant improvements in service.

It is held to be a bad practice for a telephone utility to give free switching between logical telephone areas as such service is distinct from community service and the community subscribers seldom using the toll service should not be obliged to pay rates sufficient to maintain the same.

Petition of applicants to transfer certain of their telephone properties from one to the other granted, and they are authorized to put into effect their regular schedules of rates in the various exchange areas acquired, the Pacific company to establish toll rates between exchange areas heretofore receiving free toll service, provided the exchange areas it proposes to establish are first approved by the commission. The Union company authorized to issue \$219,000.00 face value of its bonds, to be sold to the Pacific company at not less than \$1 $\frac{1}{4}$ , the proceeds thereof to be used to discharge \$182,500.00 of outstanding debentures; also to borrow \$30,000.00 from the Pacific company on 6 per cent serial notes, to be issued at par, the proceeds to be used to consolidate the properties which it will acquire.

*W. W. Butler*, for Union Home Telephone and Telegraph Corporation.  
*James T. Shaw* and *H. D. Pillsbury*, for The Pacific Telephone and Telegraph Company.

*G. H. Scott*, for city of Santa Ana.

*Walter Eden*, for Associated Chambers of Commerce.

*H. J. Ames*, for Associated Chambers of Commerce and city of Anaheim.

*E. A. Mills*, for Anaheim Board of Trade.

*W. R. Garrett*, for associated Chambers of Commerce and city of Orange.

*C. R. Allen* and *Harold C. Coyle*, for city of Fullerton.

*C. R. Allen*, for Fullerton Board of Trade.

*George L. Hoodenpyl*, for city of Long Beach.

*W. W. Guthrie*, for city of San Bernardino.

*M. O. Hurtt*, for city of Colton.

*R. E. Hodge*, for city of Rialto.

*Louis N. Whealton*, for Protestants.

EDGERTON, *Commissioner*.

#### OPINION.

Union Home Telephone and Telegraph Corporation and The Pacific Telephone and Telegraph Company join in this application and ask for authority to exchange certain telephone properties and as an incident Union Home Telephone and Telegraph Corporation asks authority to sell certain securities to The Pacific Telephone and Telegraph Company.

The main purpose sought to be served by applicants is to eliminate competition in certain territory in southern California by a consolidation of telephone properties which will in certain instances leave the field to one company and in other instances to the other company.

The engineers of the Railroad Commission and the engineers of the companies have made valuations of the property proposed to be exchanged, with the following result:

*Valuation of Properties of Pacific and Union Home Companies as of December 31, 1916*

	Pacific Company	Union Home Company
Railroad Commission engineers:		
Reproduction cost, new.....	\$107,195 96	\$117,501 37
Reproduction cost less depreciation.....	312,247 72	317,029 70
Company engineers:		
Estimated investment*.....	410,659 68	429,995 65
Estimated investment less deterioration†.....	359,687 95	359,546 86
Estimated investment based on current prices.....	523,768 71	551,752 72
Present value .....	462,750 43	468,891 64

\*Corresponds to "Reproduction cost new."

†Corresponds to "Reproduction cost less depreciation."

It will be noted that the engineers of the companies find the value of the properties to be exchanged, estimated on the investment less deterioration basis, to be almost exactly the same; whereas the engineers of the Railroad Commission find, on the reproduction cost less depreciation basis, that the properties of the Pacific company have a value of approximately \$25,000.00 more than the properties of the Union Home company.

I believe the benefits to be derived by the Pacific company from the consolidation proposed are such as to warrant disregarding such a comparatively slight difference as may exist between the values of these properties.

As a part of this whole transaction, Union Home Telephone and Telegraph Corporation asks authority to issue and sell to The Pacific Telephone and Telegraph Company \$219,000.00 face value of bonds for \$182,500.00 cash, which is a ratio of 83 $\frac{1}{3}$  per cent of par. With the proceeds of the sale of these bonds the Union company will pay off \$182,500.00 face value of debentures, said debentures having fallen due November 1, 1917.

Also The Pacific Telephone and Telegraph Company is to loan Union Home Telephone and Telegraph Corporation a sum not in excess of \$30,000.00, serial notes at 6 per cent interest (the principal to be paid \$5,000.00 annually) to be issued for such loan. This money, or so much thereof as may be necessary, is to be used by Union Home Telephone and Telegraph Corporation to bring about the physical consolidation of these plants.

While the financial condition of Union Home Telephone and Telegraph Corporation is such that the authorization of the issuance of these securities to go to the public would not be warranted, it is clear that this whole transaction will be of benefit to both of these companies, and inasmuch as The Pacific Telephone and Telegraph Company is fully advised of the value of these securities and their purchase can in no wise affect the rates or service to be given the public, and as these securities will be held by The Pacific Telephone and Telegraph Company and not sold to the public, I believe the proposal should be sanctioned.

Futhermore, the debentures proposed to be retired by the money obtained from the issuance of bonds are secured by \$337,000.00 face value of bonds, and in the event that these debentures are not paid, the bonds held as security would become outstanding, thus diluting the interests of existing bondholders. Of course the order should provide that upon payment of these debentures the bonds pledged as security therefor should be returned to the treasury of Union Home Telephone and Telegraph Corporation to await any further order of this commission.

The consolidation of these telephone properties is on the whole in the public interest.

While at first the installation of competing telephone systems was welcomed, the waste, inefficiency and undue cost of maintaining two separate systems has come to be almost universally recognized.

As illustrating this feeling on the part of the public, it is to be noted that notwithstanding the widest publicity there was no protest against the proposal to consolidate.

There was very decided protest made to the proposal of The Pacific Telephone and Telegraph Company that all free switching be eliminated between exchanges and to the imposition of new rates for the consolidated service.

In the county of Orange The Pacific Telephone and Telegraph Company is to acquire all of the telephone properties of its competitor.

Partly as the result of competition there has been established the practice of permitting subscribers in one exchange to converse with subscribers in other exchanges at no additional charge over the regular exchange rates.

The Pacific Telephone and Telegraph Company proposes to do away with this practice, contending that conversation between exchanges is properly toll or long distance service, and as such should carry a long distance charge.

The subscribers object to this proposal. Some insist that the present status both as to rates and free switching be maintained, others propose that no tolls for service between exchanges be charged for as such, but that the exchange rates of subscribers be raised to compensate the company for what is now free switching, while still others suggest that the whole of Orange County be made, in effect, into one exchange and rates be fixed so as to compensate the company for providing universal service, so that any subscriber in Orange County might telephone to any other subscriber in the county and pay no charge other than a flat monthly rate.

Free switching between logical exchange areas is bad practice. There is a clear and necessary distinction between exchange service and long distance service.

Exchange service is given between people who reside in a separate community where it is to the mutual interest that telephone connection be readily had at reasonable cost and without distinction as to cost because of distance separating subscribers. In such a community it may be assumed that each subscriber will use the telephone freely, and experience has demonstrated the wisdom of treating the community service as a whole.

Service between communities not necessarily confined within political boundaries, however, is on a different basis. Here there is not the need for frequent telephone connection between people who have not the same community or neighborhood interests. Hence, comparatively few use such service either for business or pleasure and as such service is costly to maintain, if we exact no additional charge therefor we must impose this burden upon the many who seldom, if ever, use this service, for the benefit of the few.

We would all object, for instance, to pay a rate for our residence telephones which would pay for the long distance service between Los Angeles and San Francisco.

It is inevitable that those who only use the exchange service are paying a part of the charges which should be assessed against those who use the service between exchanges.

Free switching between exchanges here involved should be abolished and the established toll rates charged for conversation between subscribers in different exchanges.

It is of course proper that fair and logical boundaries be fixed for exchanges.

The evidence in this proceeding shows that not all of the exchange areas in Orange County are fair and logical. For instance, there seems to be no justification for the imposition of separate exchange areas between Tustin and Santa Ana, and there may be other instances, but the evidence is not such as to enable us to clearly set out the proper exchange areas. I shall recommend therefore that before free switching is abolished and new rates established, The Pacific Telephone and Telegraph Company present for our approval a plan of Orange County setting out fair and logical exchange areas.

The rates of the companies are not in all instances the same for like service and the service heretofore given has not been in all instances the same, and the new service given by the consolidated system will be different than that heretofore given by either company. Hence the need for new rates for the new service. If the attempt were made to maintain the present rates, extreme and unjustifiable discrimination would result.

Sufficient evidence was introduced by The Pacific Telephone and Telegraph Company to show that the present rates are in many instances unreasonably low. The proposal of the company therefore to establish its minimum standard schedule is not unreasonable. With very few and minor exceptions this schedule of rates is as low for a like service as any in California.

While this schedule of rates will result in some increases, it is to be remembered that increased service will be given in that service to subscribers of both companies will be available at the new rates.

Also there will be available to all subscribers the long distance service of The Pacific Telephone and Telegraph Company and United States Long Distance Telephone and Telegraph Company, whereas now subscribers have access to only one long distance service. I therefore recommend that the rates proposed by the company be authorized.

In the San Bernardino district The Pacific Telephone and Telegraph Company is to acquire all of the property of Union Home Telephone and Telegraph Corporation outside of the city of San Bernardino and the Union Home Telephone and Telegraph Corporation is to acquire most of the exchange property of The Pacific Telephone and Telegraph Company in said city, the latter to retire from all except long distance business in the city.

Free switching exists between exchanges in San Bernardino district. As in Orange County it is proposed to abolish this free switching and to establish The Pacific Telephone and Telegraph Company minimum standard schedule of rates except in San Bernardino City where the Union Home Telephone and Telegraph Corporation will apply its present rates to the new service.

All that has been said in discussing the Orange County situation applies with equal force to the San Bernardino district outside of the city of San Bernardino, and I make the same recommendation except that there is no evidence that the exchange areas are not logical and therefore there is no need for rearranging them.

In Long Beach the Union Home Telephone and Telegraph Corporation is to acquire most of the exchange property of The Pacific Telephone and Telegraph Company, the latter to retire from all except long distance business. The Union Home Telephone and Telegraph Corporation will apply its existing rates to the new service.

In Wilmington, San Pedro and Ventura The Pacific Telephone and Telegraph Company is to acquire all of the property of Union Home Telephone and Telegraph Corporation and The Pacific Telephone and Telegraph Company will apply its present rates to its new service.

Herewith a form of order:

#### ORDER.

Union Home Telephone and Telegraph Corporation and The Pacific Telephone and Telegraph Company are hereby authorized to convey each to the other all of those certain franchises and telephone property, a description of which is set out in the application herein, reference to which is hereby made for particulars.

Upon the disposal of its telephone property as above mentioned, each said company is hereby authorized to cease and abandon telephone business conducted over such conveyed property.

The Pacific Telephone and Telegraph Company is hereby authorized to charge its regular telephone toll rates now on file with this commission for telephone service given by the properties involved in this proceeding.

The Pacific Telephone and Telegraph Company is further authorized to establish and charge its minimum standard schedule of rates for exchange service given by the properties involved in this proceeding; provided, however, that before any changes in existing rates shall be made by The Pacific Telephone and Telegraph Company it shall file, for the approval of this commission, a plan of Orange County setting out fair and logical exchange areas.

Union Home Telephone and Telegraph Corporation is hereby authorized to issue and sell to The Pacific Telephone and Telegraph Company, at not less than 83½ per cent of par \$219,000.00 face value of first mortgage 5 per cent bonds. The proceeds thereof shall be used only to pay the indebtedness represented by \$182,500.00 face value of 6 per cent debentures due November 1, 1917. Immediately upon the payment of said debentures all bonds pledged as security therefor shall be returned to the treasury of Union Home Telephone and Telegraph Corporation and not thereafter to be issued except upon authorization of this commission.

Union Home Telephone and Telegraph Corporation is further authorized to issue not to exceed \$30,000.00 face value of 6 per cent serial notes, the principal of which is to be paid \$5,000.00 annually. Said notes shall be sold to The Pacific Telephone and Telegraph Company at full face value and the proceeds thereof shall be used by Union Home Telephone and Telegraph Corporation to consolidate the telephone properties herein authorized to be purchased by it.

Union Home Telephone and Telegraph Corporation shall report to this commission immediately upon the issuance of the bonds herein authorized and the payment of the debentures with the proceeds thereof; and shall make reports by the first of each month setting out in detail the expenditure of the money obtained from the issuance of the serial promissory notes authorized for the consolidation of its property.

The Pacific Telephone and Telegraph Company and Union Home Telephone and Telegraph Corporation shall make reports by the first of each calendar month setting out in detail the progress made in the consolidation of the telephone properties herein authorized.

The authority herein granted shall not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

Dated at San Francisco, California, this sixteenth day of April, 1918.

## DECISION No. 5315.

IN THE MATTER OF THE APPLICATION OF MOUNT WHITNEY POWER AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING APPROVAL OF A PLAN FOR MAKING EXTENSIONS OF ELECTRIC SERVICE DURING THE WAR.

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Application No. 3566.

*Decided April 16, 1918.*

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Owing to the difficulty experienced by applicant in raising sufficient funds to cover cost of extensions necessary to serve prospective consumers, the following rules governing the construction of extensions are established: (a) When the gross annual revenue equals or exceeds 33 $\frac{1}{3}$  per cent of the cost of the extension it shall be made at the company's expense; (b) When the gross annual revenue will be less than 33 $\frac{1}{3}$  per cent but more than 20 per cent, the company will make the extension provided the prospective consumer advances the entire cost thereof to be refunded on a basis of 20 per cent of monthly bills, or the consumer may construct at his own expense sufficient of the extension to bring it within the first class; (c) Until further order of the commission applications for service where the gross annual revenue will be less than 20 per cent need not be accepted by the company; (d) All extensions within the incorporated limits of cities or towns to be made at the expense of the utility.

Suggestion made that informal complaints pending before the commission with reference to applications for service from applicant be adjusted in accordance with the above rules and that extensions made within the last year be adjusted in accordance with the above rules if requested by the consumer.

*Harry J. Baucr*, for Mount Whitney Power and Electric Company.

*Mar B. Jamison*, for certain consumers.

*THELEN, Commissioner.*

**OPINION.**

Mount Whitney Power and Electric Company, hereinafter at times referred to as the Mount Whitney Company, sells electric energy in the counties of Tulare, Kern and Kings. The company asks approval of a plan for making extensions of electric service to intending customers during the period of the war or for such other time as this commission may determine.

A public hearing was held in Visalia on March 16, 1918. Notice of the hearing was mailed to all persons who have applications for extensions pending with the Mount Whitney company and quite a number of such persons appeared and presented testimony. It was stipulated that all informal complaints for extensions of service by the Mount Whitney company now pending before the Railroad Commission might be considered as being in evidence herein and might be disposed of in this proceeding. The company has supplied the data called for at the hearing and this proceeding is now ready for decision.



The plan for making extensions, which plan the Mount Whitney company desires to make effective, is set forth in Exhibit "B" attached to the petition herein and reads as follows:

"1. Applications will be accepted upon the basis of the estimated income for the first year being equivalent to 60% of the cost of the extension.

"(Example) Should you receive an application which would yield an income of \$180.00, the \$180.00 would represent three-fifths of the expenditure authorized for such an income. The short-cut would be to divide the estimated income by three and multiply by five, which would give \$300.00.

"2. Should the estimated income not reach 60% of the investment but should equal or exceed 33 $\frac{1}{3}$ %, you are authorized to give the consumer the option of

"(a) Purchasing Common Stock of Southern California Edison Company for whatever amount would be required to make up the deficiency in the installation cost upon the 60% basis, or

"(b) Depositing an amount in cash which would be equal to the deficiency in the installation cost upon the 60% basis. This deposit would be accepted as an advance payment for power service to be refunded at the rate of 20% of the power bills each month, after the first year of service.

"(Example) Supposing you should receive an application which would yield an estimated annual income of \$240.00, and the cost of such installation should be \$600.00. The \$240.00 income would warrant a \$400.00 expenditure upon the 60% basis, so that there would be a deficiency of \$200.00 which could be made up by the purchase of stock or the deposit of cash as outlined above.

"3. Applications with estimated incomes of less than 33 $\frac{1}{3}$ % but more than 20% may be accepted, provided the consumer deposits an amount equal to the entire cost of the installation, the deposit to be refunded upon the basis of 20% of monthly power bills after the first year of service. The purchase of stock of Southern California Edison Company in connection with applications for extensions would not be acceptable unless the estimated income is at least 33 $\frac{1}{3}$ % of the expenditure.

"The foregoing instructions apply to all requests for extensions which are made at the district offices. It is understood that the company is not soliciting new business of any kind.

"Applications for power service for irrigating or other purposes should not be accepted under any conditions where they do not yield an income for the first year equal to 20% of the cost of installation.

"However, any applications which are received and which do not reach the 20% basis but which may be surrounded by conditions which merit special attention should be referred to this office for further instructions."

The petition was amended at the hearing to be applicable to extensions of service requested not merely for power for irrigation but also for all other purposes.

Mr. R. H. Ballard, first vice president of Southern California Edison Company, which company by stock ownership controls the Mount Whitney company, testified that this application is based on the difficulty on the part of the Mount Whitney company of securing the necessary funds for extensions of its distributing system. Materials and supplies are being delivered as needed, but for funds it will be necessary for the Mount Whitney company to rely largely on loans from Southern California Edison Company.

Petitioner expects during this year to take on approximately 4,000 horsepower of additional business, largely pumping for irrigation, at a total cost for the necessary extensions and equipment of \$216,936.76. The estimated cost of these extensions and the assumed annual income are set forth in Petitioner's Exhibit No. 6 as follows:

*Estimated Extensions, 1918.*

	Cost	Annual income
33½ per cent income and less.....	\$59,936 76	\$15,800 00
33½ per cent to 60 per cent income.....	98,000 00	42,700 00
60 per cent income and over.....	59,000 00	60,300 00
	<b>\$216,936 76</b>	<b>\$118,800 00</b>

Under the plan proposed by petitioner, the cost of these extensions would be paid as follows:

	Paid by consumer	Paid by company
Extensions yielding 33½ per cent or less annual income—all.....	\$59,937 00	
Extensions yielding 33½ per cent to 60 per cent annual income—on 60 per cent basis.....	26,834 00	\$71,166 00
Extensions yielding 60 per cent annual income or more—all.....		59,000 00
<b>Totals .....</b>	<b>\$86,771 00</b>	<b>\$130,166 00</b>

In determining the instances in which the proposed consumer is to advance part of the cost of the extension, I desire to draw attention particularly to the fact that the total income derived from all extensions made in 1917, yielding an annual revenue in excess of 33½ per cent of the cost of the extension, amounted to 66 per cent of the total cost of the extensions. As shown by Petitioner's Exhibit No. 5 herein, the total cost of all such extensions in 1917 was \$130,799.93 and the annual income therefrom is \$86,084.40. Petitioner has assumed the same condition with reference to its 1918 extensions.

Such a financial showing is very satisfactory as a basis for making extensions and I recommend that the Mount Whitney company make,

at its own expense, all extensions which will yield an annual revenue of  $33\frac{1}{3}$  per cent or more of the cost of making the extension. In this connection, I desire to draw attention to the fact that the amount of money involved in this particular consideration is only \$26,834.00 and that a reduction in the estimated cost of reconstructing overhead construction to conform to the amount of such work which can be done in 1918 will almost equal this sum.

I recommend that applications with estimated incomes of less than  $33\frac{1}{3}$  per cent but more than 20 per cent of the cost of the extension be accepted, provided that until the further order of the commission the intending consumer shall deposit an amount equal to the entire cost of the installation, the deposit to be refunded upon the basis of 20 per cent of the monthly power bills. As an alternative, the consumer may at his own cost construct sufficient of the extension so that the amount to be expended by the company shall not exceed three times the gross annual revenue; or he may contract to pay for sufficient service to bring him within the three to one class, such contracts to be satisfactory to the company.

Until the further order of the commission, the company should not be required to make any extension in cases in which the gross annual revenue will be less than 20 per cent of the cost of the extension.

Extensions within the limits of incorporated cities and towns should be made in accordance with Rule 15 of the rules for water, gas, electric and telephone utilities established by this commission in Decision No. 2879, made on November 5, 1915, in Case No. 683 (Vol. 8, Opinions and Orders of the Railroad Commission of California, pp. 372, 381), reading as follows:

"A water, gas, electric or telephone utility which operates under a general franchise authorizing the occupancy of all the streets of a municipality shall make, at its own expense, such street extensions as may be necessary to serve applicants; *provided*, that in any case in which the construction of an extension at the utility's sole cost will in its opinion work an undue hardship upon the utility or its existing consumers, the matter may be submitted to the commission as provided by section 36 of the Public Utilities Act, unless satisfactorily adjusted by an informal application to the commission."

All extensions made within one year prior to the date of the order herein should, if requested by the consumer, be adjusted by the company in accordance with the rules established in the order herein, so as to avoid discrimination.

I shall now refer to informal complaints concerning extensions to be made by the Mount Whitney company and the disposition to be made thereof.

1. I. C. 12,907—C. A. Peairs, Tulare.

2-horsepower motor and lights. Extension will be made as soon as Mr. Peairs obtains a single-phase motor.

2. I. C. 13,118—R. H. Wills, Goshen.  
3-horsepower motor, air compressor for automobile filling station and lights. Mr. Wills testified at the hearing of March 16, 1918. Subsequently a contract for an additional 20-horsepower motor to operate a creamery was secured by the company and we are advised that this extension will now be made.
3. I. C. 13,259—D. B. Moore, Tulare.  
15-horsepower motor for 4 months' service. Estimated cost of extension \$816.85. Estimated annual revenue \$303.75. We are advised that this applicant has now installed a gas engine.
4. I. C. 13,266—C. O. Bowen Ranch, Strathmore.  
7½-horsepower and 5 horsepower motors. We are advised that extensions have now been made to serve both of these installations.
5. I. C. 13,272—Albert A. Harris, Strathmore.  
7½-horsepower motor. We are advised that this application has been withdrawn because of inability of applicant to secure necessary rights of way.
6. I. C. 13,348—Dudley Cheney et al., Porterville.  
Extensions near Porterville for lights and a few small motors. Testimony in this matter was presented at the hearing of March 16, 1918. We are advised by the company by letter dated April 11, 1918, that the company has canvassed the territory and can find only 14 prospective lighting consumers, instead of 22 as suggested, and two customers for power, one of whom desires power for a 1-horsepower motor and the other for a 2-horsepower motor. The company reports that the cost of extending to these petitioners will be \$1,041.83 and the total estimated annual revenue \$269.80. It would appear from the evidence and report that service to the petitioners who can be most readily reached, without extending to the more distant consumers, will probably be remunerative. If not, we can not advise that the company be directed to make this extension at this time unless the applicants bring themselves within the rules and regulations established by the order herein.
7. I. C. 13,364—Miles E. Allen, Pixley.  
5-horsepower motor. Estimated cost \$607.00. Estimated annual revenue, \$134.00. This extension should be made if applicant brings himself within the provisions of the order herein.
8. I. C. 13,369—Alex Papoff et al., Earlimart.  
Three 7½-horsepower motors, for pumping service to Alex Papoff, Mike Pozonoff and William Agalzov. These persons and neighbors are buying land from Earlimart Land Company northwest of Earlimart along the Deer Creek wash. Testimony in their behalf was presented at the hearing of March 16, 1918. The annual gross revenue from said three plants would be \$800.72 and the cost of service is estimated at \$2,501.58. As stipulated at the hearing,

Acting Gas and Electrical Engineer L. S. Ready inspected the territory. He reports the land in the vicinity to be largely alkaline with scant prospect for additional business. Practically all wells in this vicinity are now operated by gas engines. Mr. Ready recommends, and I concur therein, that this extension be not required unless Earl-  
 imart Land Company will comply with the rules and regulations established in the order herein and in addition guarantees the payment of the power bills in form satisfactory to the Mount Whitney company.

9. I. C. 13,390—Kenneth Keagle, Pixley and  
 I. C. 13,407—C. L. Howard, Pixley.  
 5-horsepower motor. Estimated cost \$560.72. Estimated annual income \$211.50. Testimony in this matter was presented at the hearing of March 16, 1918. We are advised that contract has been signed and that the line will be constructed.
10. I. C. 13,468—W. B. Wells, Porterville.  
 15-horsepower motor. We are advised that Mr. Wells has installed a gas engine.
11. I. C. 13,482—Charles Wentworth, Porterville.  
 3-horsepower motor. Estimated cost \$500.00. Estimated annual revenue less than \$100.00. Pumping from water ditch. We can not recommend that the company be required at this time to make this installation.
12. I. C. 13,490—T. B. Phariss, Porterville.  
 5-horsepower motor. Estimated cost \$437.46. Estimated annual revenue \$148.75. We are advised that this extension will be made.
13. I. C. 13,616—C. L. Berry, Lindsay.  
 3-horsepower motor. Estimated cost \$320.06. Estimated annual revenue \$89.29. This extension should be made if applicant brings himself within the provisions of the order herein.
14. I. C. 13,627—Mrs. Ralph J. Hersey, Lindsay.  
 Electric range. Estimated cost of extension \$201.54. Estimated annual revenue \$60.00. This is domestic service within a municipality and this extension should ordinarily be made at the utility's expense. In view of the heavy demands on this company at this time for installations to pump water for the production of foodstuffs, we suggest that the parties ascertain whether this applicant can not avail herself of other fuel at this time.
15. I. C. 13,639—Wm. Nickel, Tulare.  
 Discrimination in charge for lighting service. Mr. Nickel testified at the hearing in Visalia that he is compelled to pay a \$3.00 monthly minimum for lighting service in Tulare while his neighbors all pay a monthly minimum of 75 cents. To serve him, the company hung a separate transformer from a 6,600-volt circuit. The service extension cost \$115.94. While unusual expense was incurred to serve

this consumer, this is domestic service within a municipality, which service is viewed as a whole, and the established minimum of 75 cents monthly should apply.

16. I. C. 13,666—Robert L. Reed, Porterville.  
1-horsepower motor and lights. Estimated cost \$122.37. We are advised that this place has been sold and that the purchaser has not made application for service.
17. I. C. 13,703—D. J. Wilson, Tulare County.  
This is a general request for information with reference to the extension of power lines for pumping and is answered by the provisions of the order herein.
18. I. C. 13,766—Clifford H. Powers, Delano.  
15-horsepower motor. We are advised that this extension will be made.

In addition to the foregoing matters, Mrs. Carrie E. Flagler and Mr. C. Ellison testified concerning their desire to secure electricity for lighting and cooking purposes in Tulare. The company has now presented a report in this matter, from which report and the testimony it appears that this extension should be made in proper order.

While the order will not specifically refer to the informal complaints hereinbefore set forth, the Mount Whitney company will be expected to dispose of them in accordance with the suggestions herein made. The company has shown a praiseworthy spirit in making extensions as rapidly as possible in view of the large amount of this work to be done within a relatively short time. At this time particularly, when the production of additional foodstuffs is a matter of vital importance, the extension of electric lines to permit of the pumping of water for irrigation is a matter of very great importance and electric utilities which do their part promptly in this work are entitled to commendation for their service.

I submit the following form of order:

#### ORDER.

Mount Whitney Power and Electric Company having applied for an order authorizing the company to make effective a certain plan for making extensions for the service of electric energy, a public hearing having been held and the matter being now ready for decision,

*It is hereby ordered* that Mount Whitney Power and Electric Company be and the same is hereby authorized to make effective the following rules and regulations applicable to the making of extensions for electric service:

1. The company will at its own expense make all extensions in cases in which the annual gross revenue equals or exceeds  $33\frac{1}{3}$  per cent of the cost of the extension.
2. Where the annual gross revenue to be secured from any extension is less than  $33\frac{1}{3}$  per cent but more than 20 per cent of the cost of the

extension, the company will make the extension provided that the applicant advances the entire cost of the extension to be refunded upon the basis of 20 per cent of the monthly bills. The applicant, however, may at his own cost construct sufficient of said extension so that the amount to be expended by the company shall not exceed three times the annual gross revenue or may contract, in form satisfactory to the company, to take such service that the annual gross revenue paid by him shall be equal to  $33\frac{1}{3}$  per cent of the cost of the extension to the company, whereupon Rule 1 shall apply.

3. Until the further order of the Railroad Commission, applications for service in which the annual gross revenue will be less than 20 per cent of the cost to the company of the extension need not be accepted by the company.

4. Extensions within incorporated cities or towns shall be made as provided in Rule 15 of the Rules and Regulations established by the Railroad Commission on November 5, 1915, in Decision No. 2879 in Case No. 683.

*It is further ordered* that all extensions made by Mount Whitney Power and Electric Company within one year prior to the date of this order shall be adjusted if requested by the consumer within ninety days from the date of this order, on the basis of the rules and regulations herein established. Mount Whitney Power and Electric Company is directed to send a copy of this opinion and order within thirty days from the date of this order, to each consumer for whom an extension has been constructed subsequent to January 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixteenth day of April, 1918.

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DECISION No. 5316.

IN THE MATTER OF THE APPLICATION OF SAN FERNANDO VALLEY HOME TELEPHONE COMPANY FOR AUTHORITY TO SELL PROPERTY AND FRANCHISES TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO ACQUIRE THE SAME, AND AUTHORIZING SAN FERNANDO VALLEY HOME TELEPHONE COMPANY TO WITHDRAW FROM THE TELEPHONE BUSINESS.

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Application No. 3280.

*Decided April 16, 1918.*

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When one telephone utility purchases the properties of a competing company, which property it intends to use only for the material and supplies obtainable therefrom, it is held that the purchaser should capitalize only such part of the purchase price as may represent the reasonable value of the property, considered from the point of view of materials and supplies in the storeroom.

In connection with a proceeding to transfer the property of one public utility to another it can not be contended that as the proceeding concerns primarily the sale and transfer of utility property, the commission has no interest in rates. Such a proceeding indirectly involves the matter of readjustment of rates and the commission is interested in knowing what rates the purchasing company proposes to charge and how such rates compare with those at present in effect. The Railroad Commission refuses to recognize any promises made in the past by individuals or utilities, under competitive or other conditions, for should such promises be held as morally binding, logical and just rate fixing would immediately become an impossibility. The commission refuses to order the Pacific company to continue in effect the free toll service established in this district when competition existing, which service is not given free in other localities.

San Fernando company authorized to transfer its properties to the Pacific company for a sum not to exceed \$103,862.72; provided, that should the Pacific company decide to operate under the purchased franchises, a stipulation be filed to the effect that no value shall ever be claimed therefor in excess of the actual original cost, and that the bookkeeping entries of the purchasing company, with reference to the acquired properties be first approved by the commission. Pacific company required to make monthly reports as to reconstruction work done and the use to which the purchased properties are put.

*Walter F. Dunn*, for San Fernando Valley Home Telephone Company.

*J. T. Shaw and Arthur Wright*, for The Pacific Telephone and Telegraph Company and Southern California Telephone Company.

*H. R. Lynch*, for the Board of Trustees of Glendale, Protestant.

*W. F. McCann*, for Lankershim Chamber of Commerce, Protestant.

*GORDON, Commissioner.*

#### OPINION.

San Fernando Valley Home Telephone Company, hereinafter sometimes referred to as the "San Fernando Company," asks authority to sell for \$103,862.72 its properties described in its Exhibit No. V to The Pacific Telephone and Telegraph Company, hereinafter sometimes referred to as the "Pacific company." The Pacific company joins in the application.

The subject matter of this opinion will be considered under the following heads:

1. San Fernando Valley Home Telephone Company.
2. The Pacific Telephone and Telegraph Company.
3. Appraisal of properties of San Fernando Valley Home Telephone Company.
4. Purposes of consolidation and method.
5. Rates.
6. Revenues and expenses after consolidation.
7. Franchises.

#### 1. *San Fernando Valley Home Telephone Company.*

San Fernando Valley Home Telephone Company was organized on or about June 2, 1904. The company has \$50,000.00 of stock and \$40,000.00 of first mortgage bonds outstanding. The company's annual



report for the year ending December 31, 1916, shows that the stock is owned by the following:

John H. Bartle .....	250 shares
J. M. Baldwin .....	100 shares
W. A. Chess .....	50 shares
W. F. Dunn .....	50 shares
W. F. Cornes .....	50 shares

J. M. Baldwin and his associates purchased the \$50,000.00 of stock on or about April 1, 1915, from L. C. Brand for \$15,000.00. The company's bonded indebtedness at that time is reported at \$40,000.00. The testimony shows that at the time of the stock purchase, J. M. Baldwin considered the properties of the San Fernando company worth from \$85,000.00 to \$90,000.00.

Since April 1, 1915, about \$10,000.00 has been expended for improvements.

The San Fernando company operates a telephone system in Glendale, Burbank, Tropic, Lankershim and adjacent territory in Los Angeles County. It has an exchange located at Glendale, another at Burbank. On December 31, 1916, it had 228 stations connected to the Burbank exchange and 691 stations connected to the Glendale exchange, making a total of 919. It has reported revenues and expenses to the Railroad Commission for the years ending December 31, 1915 and 1916 as follows:

TABLE NO. I.

*Revenues and Expenses of San Fernando Valley Home Telephone Company During 1916 and 1915.*

Item .....	1916 .....	1915 .....
Telephone operating revenues .....	\$21,393 49	\$16,125 78
Telephone operating expenses .....	17,880 10	11,519 46
Net telephone operating revenues .....	\$3,513 39	\$4,606 32
Taxes assignable to operations .....	867 33	836 29
Operating income .....	\$2,646 06	\$3,770 03
Nonoperating income .....		2,035 00
Gross income .....	\$2,646 06	\$5,805 03
Deductions from gross income—		
Rent for office .....	\$672 00	\$306 00
Rent for conduits, poles, etc. ....	1,837 71	157 79
Interest on funded debt .....	1,935 00	1,500 00
Other interest .....	70 00	
Miscellaneous .....	37 84	
Total deductions .....	\$4,552 55	\$1,963 79
Net income .....		\$3,841 24
Net loss .....	\$1,906 49	

## 2. *The Pacific Telephone and Telegraph Company.*

The Pacific Telephone and Telegraph Company operates an exchange at Burbank, another at Glendale. On December 31, 1916, it had 133 stations at Burbank and 2,146 at Glendale, making a total of 2,279. In its Exhibit No. 3, it reports revenues and operating expenses and other deductions for the year 1916 assignable to the Burbank and Glendale exchanges as follows:

TABLE NO. II.

*Revenues and Expenses of the Pacific Telephone and Telegraph Company During 1916.*

Item	Burbank	Glendale	Total
Operating revenues -----	\$3,415 52	\$45,357 59	\$48,773 11
Operating expenses -----	5,939 52	50,233 29	56,172 81
Net operating loss -----	\$2,524 00	\$4,875 70	\$7,399 70
Other deductions --			
Taxes -----	\$11 44	\$2,586 64	\$2,598 08
Rent -----	628 33	1,215 18	1,843 51
Uncollectible bills -----	21 99	329 79	351 78
Total other deductions -----	\$661 76	\$4,131 61	\$4,793 37
Total loss for 1916 -----	\$3,185 76	\$9,007 31	\$12,193 07

The operating expenses for the Burbank exchange include \$1,950.56 for depreciation; those for the Glendale exchange \$19,076.57, making a total depreciation charge of \$21,027.13. The depreciation was figured at the rate of 6.64 per cent. Excluding the depreciation, the earnings of the Burbank and Glendale exchanges resulted in a surplus of \$8,834.66 after the payment of taxes and rent.

Reference will hereafter be made to the estimated revenues and expenses during the first and second years following the proposed consolidation.

## 3. *Appraisal of Properties of San Fernando Valley Home Telephone Company.*

I. F. Dix, an engineer for The Pacific Telephone and Telegraph Company, estimates the cost of constructing the San Fernando Company's properties as of May 31, 1917, at \$125,454.32, and the cost of constructing the same less deterioration at \$103,862.72. The engineers for the Railroad Commission in the commission's Exhibit No. 1 report the reproduction cost new of the properties as of May 31, 1917, at \$106,085.23 and the reproduction cost less depreciation at \$83,929.67. Mr. Dix testified that he used the term "deterioration" as being synonymous with the term "depreciation."

The difference between the estimated cost of constructing the properties, as reported by I. F. Dix, and the reproduction cost new reported by the Railroad Commission's engineers amounts to \$19,369.09. The difference between the estimated cost of constructing the properties less deterioration, as reported by I. F. Dix, and the reproduction cost less depreciation as reported by the commission's engineers amounts to \$19,333.05. The testimony shows that the engineers for the company and for the commission used practically the same inventory. The difference in the appraisal is due to different methods being pursued by the engineers. I. F. Dix appraised the properties on the basis of the cost experience of building other properties in southern California. The engineers of the Railroad Commission, on the other hand, applied cost data used in the valuation of other comparable properties. Applying these methods, for example, to the appraisal of the exchange pole lines, exchange aerial cable and exchange aerial wire, produced results as follows:

Item	I. F. Dix	Commission's engineers	Difference
Exchange pole lines.....	\$36,666 75	\$25,757 33	\$10,909 42
Exchange aerial cable.....	21,469 42	18,118 00	3,021 42
Exchange aerial wire.....	21,652 63	19,448 00	2,204 63
Total difference .....			\$16,135 47

The difference in the reproduction cost of the three foregoing items of property, as reported by I. F. Dix and the commission's engineers accounts for \$16,135.47 of the \$19,369.09 difference in the reproduction cost of the entire properties as reported by I. F. Dix and the commission's engineers.

Neither I. F. Dix nor the engineers for the commission made any deductions from their appraisal for such property as may become useless to the purchasing company if the proposed consolidation is effected. In other words, neither of the engineers have considered the matter of duplicate property. J. T. Shaw, representing the Pacific company, takes the position that there is no duplicate property involved in this transaction in the sense that that term is ordinarily used. He called the commission's attention to the fact that the Pacific company is purchasing a lot in Glendale, will put up a new central office building and rebuild the entire territory now being served by the San Fernando company as well as the territory being served by the Pacific company through its Glendale and Burbank exchanges. The plans of the engineers of the Pacific company call for dismantling of the central offices of both companies. He further stated that the valuation prepared by I. F. Dix has no relationship whatever to the rates which the Pacific company will apply to this territory so far as the property itself is

concerned; that the amount of money which the Pacific company is willing to pay for the properties of the San Fernando company is totally unrelated to what the people should pay in rates; that the Pacific company has agreed to pay \$103,862.72 for the properties for the reason that it feels they are worth that much to it and that it is of the opinion that it can use the properties to good advantage in other parts of its system.

From Mr. Shaw's statement it appears to me that the Pacific company regards the properties of the San Fernando company in the nature of materials and supplies. In salvaging the properties all the labor costs, as reported by the engineers, is lost. It is safe to say that some of the property will be found to be in such a condition that it can not be used elsewhere, while other property can only be used after relatively large amounts have been expended on it for repairs and alterations. In view of this situation, I believe that the Pacific company should capitalize only such part of the purchase price as may represent the reasonable value of the property, considered from the point of view of materials and supplies in the storeroom. So that the commission may be advised what use is being made of the property of the San Fernando company, I believe that the Pacific company should from time to time file with the commission statements showing the progress made in reconstructing its telephone system in Glendale, Burbank and vicinity, the use, if any, that is being made of the properties acquired from the San Fernando company, the removal of said properties, the cost of the removal and the reasonable value of the properties removed in the Pacific company's storeroom. The order will so provide.

#### 4. *Purpose of Consolidation and Method.*

It is obvious from the testimony that the purpose of this application and the end sought through this consolidation is the substitution of a single telephone service for the dual service now offered to residents of Glendale, Burbank, Tropic and vicinity. The Pacific company in its Exhibit No. 12 referring to duplicate station reports the following:

Exchange	Number of subscribers	Pacific Company			San Fernando Company		
		Total stations	Duplicates	Revenue per month	Total stations	Duplicates	Revenue per month
Burbank -----	35	41	40	\$103 20	43	40	\$107 61
Glendale -----	112	199	169	457 40	171	169	431 39

If the commission authorizes the transfer of the properties, these duplicate stations will be eliminated.

On its Exhibit No. 5, the Pacific company reports that in place of the present dual service, it will give a consolidated service. It will

consolidate the properties in such manner as to give service between all subscribers of each consolidated exchange and give each subscriber access to the toll lines of The Pacific Telephone and Telegraph Company and the United States Long Distance Telephone and Telegraph Company.

### 5. Rates.

The Pacific company proposes to charge the subscribers of the San Fernando company the same exchange rates now paid by the Pacific company's subscribers served by its Burbank and Glendale exchanges and replace the present free toll service by collecting its regularly established toll rates. Table No. III shows the Pacific company's present exchange rates as reported in its Exhibit No. 6.

TABLE NO. III.

*Present Exchange Rates of the Pacific Telephone and Telegraph Company.*

Class of service	Burbank		Glendale	
	Wall	Desk	Wall	Desk
<b>Business:</b>				
*1-party line .....	\$3 00	\$3 25	\$3 00	\$3 25
†2-party line .....	2 50	2 75	2 50	2 75
‡Suburban line .....	2 50	2 75	2 50	2 75
Extension set .....	1 00	1 00	1 00	1 00
<b>Residence:</b>				
*1-party line .....	\$2 00	\$2 25	\$2 00	\$2 25
†2-party line .....	1 50	1 75	1 50	1 75
‡Suburban line .....	2 50	2 75	2 50	2 75
Extension set without bell .....	50	75	50	75
Extension set with bell .....	65	75	65	75

\*Includes 60 calls to Los Angeles; additional calls, 2 cents each.

†Includes 50 calls to Los Angeles; additional calls, 2 cents each.

A penalty of 25 cents should be added to all bills not paid on or before the fifteenth day of the month.

Unlimited service from Burbank to Glendale and vice versa.

Table No. IV shows San Fernando Valley Home Telephone Company's exchange as reported in the Pacific company's Exhibit No. 7.

TABLE NO. IV.

*Present Exchange Rates of San Fernando Valley Home Telephone Company.*

Class of service	Burbank		Glendale	
	Wall	Desk	Wall	Desk
<b>Business:</b>				
Individual line .....	\$3 25	\$3 50	\$4 25	\$4 25
Party line .....	2 75	3 00	2 75	3 00
Suburban line .....	2 75	3 00	2 75	3 00
Extension set .....	1 00	1 00	1 00	1 00
<b>Residence:</b>				
Individual line .....	\$2 25	\$2 50	\$2 25	\$2 50
Party line .....	1 75	2 00	1 75	2 00
Suburban line .....	2 75	3 00	2 75	3 00
Extension set .....	50	50	50	50

Unlimited service from Burbank to Glendale and Los Angeles for subscribers' stations.

Unlimited service from Glendale to Burbank and Los Angeles for subscribers' stations.

A discount of 25 cents applies if bills are paid by the fifteenth of current month.

Table No. V shows the exchange rates which the Pacific company proposes to put into effect as reported in its Exhibit No. 9.

TABLE NO. V.

*Proposed Exchange Rates of the Pacific Telephone and Telegraph Company.*

Class of service	Burbank		Glendale	
	Wall	Desk	Wall	Desk
<b>Business:</b>				
Individual .....	\$3 00	\$3 25	\$3 00	\$3 25
2-party line .....	2 50	2 75	2 50	2 75
Suburban .....	3 00	3 25	3 00	3 25
Extension .....	1 00	1 00	1 00	1 00
<b>Residence:</b>				
Individual .....	\$2 00	\$2 25	\$2 00	\$2 25
2-party line .....	1 75	2 00	1 75	2 00
4-party line .....	1 50	1 75	1 50	1 75
Suburban .....	2 50	2 75	2 50	2 75
Extensions without bell .....	50	75	50	75
Extensions with bell .....	65	1 00	65	1 00

The subscribers under the proposed exchange rates are subject to a 25-cent penalty if their bills are not paid on or before the fifteenth of the current month. Assuming that the subscribers pay their bills promptly, the proposed net exchange rate schedule of the Pacific company is equal to or lower than the existing net exchange rate of the San Fernando company with the exception of the business suburban rates. This rate the Pacific company purposes to increase from \$2.50 for wall and \$2.75 for desk to \$3.00 for wall and \$3.25 for desk telephones. In addition, as said, the Pacific company proposes to put into effect its regularly established toll rates between the Burbank and Glendale exchanges and Los Angeles and between Burbank and Glendale.

On December 3, 1917, the city of Glendale filed with the Railroad Commission a statement in which it declares that it had no objection to the transfer of the properties provided that such transfer does not result in any way in an increase in the rate of service or lessen the efficiency of the present service. The city objects to the introduction of a toll rate and maintains that this application relates solely to the merging of the two properties.

While it is true that this proceeding is concerned primarily with the sale and transfer of the San Fernando company's properties, yet it does indirectly involve the matter of readjustment of rates. I do not believe that the commission can entirely ignore the question of rates in this proceeding. Certainly, the commission is interested to know what rates the purchasing company proposes to charge and how these rates compare with its present rates now charged at Glendale and Burbank and elsewhere under similar conditions.

In effect, the city of Glendale, if I understand its position correctly, asks that the present free toll service be continued after consolidation. In other words, the city is willing that these properties be consolidated and that its inhabitants be given the benefit of a consolidated telephone service resulting in the elimination of 169 duplicate stations, but at the same time asks that the present free service established under competitive conditions and at a time when this commission had no jurisdiction over telephone rates, be continued. It would in my opinion be unwise and unjust to telephone subscribers in other communities for this commission to accede to the request of the city of Glendale. The matter of readjustment of rates through the purchase and consolidation of properties has frequently been before the commission. This is not the only instance where the commission because of the consolidation of properties has been faced with the problem of readjusting rates, established under competitive conditions offered as an inducement to the development of a utility business. Were the commission, as said in a former decision, to adopt the principle that all promises made by companies and individuals or even municipalities in the past should be recognized by the commission as morally binding, logical and just, rate fixing and rate readjustment would immediately become an impossibility and we would have a condition whereby some consumers would be grossly discriminated against merely because utility companies had promised other consumers concessions or favorable rates. The elimination of free toll service does not put the telephone subscribers in Glendale at a disadvantage as compared with subscribers elsewhere. It simply means that they shall no longer enjoy the benefits of discriminatory favors. The state-wide telephone rate case now pending before the commission affects toll rates only indirectly. Pending any readjustment of these rates, I believe that the Pacific company should be permitted to eliminate free switching service between these communities.

Mr. W. F. McCann, representing the Lankershim Chamber of Commerce, protests against the increase in suburban exchange business rates from \$2.50 to \$3.00 per month for a wall telephone and from \$2.75 to \$3.25 per month for a desk telephone. He contends that the people of Lankershim are receiving no additional consideration for this increase. Instead of being offered a 2-party line service as subscribers in Glendale and Burbank, they are being offered a 10-party line suburban service. The proposed business and residence exchange rates of the Pacific company are somewhat lower than the rates now charged by the San Fernando company. Mr. McCann takes the position that an increase in the suburban business rates is at this time

unjust and unwarranted. The fact that the Lankershim people will have access to more telephones if the consolidation is effected means nothing to them, for the reason that their business telephone charges would be increased in two ways, first, through the establishment of the toll rate; and second, through the increase in the suburban business exchange rates.

There is now pending before the commission a proceeding involving The Pacific Telephone and Telegraph Company's local exchange rates throughout California. I believe that the present suburban rates applicable to telephone subscribers in Lankershim and vicinity should be continued in effect until such times as the commission modifies the same, either as a result of the present pending rate proceeding or some other proceeding.

#### 6. *Revenues and Expenses After Consolidation.*

Tables No. VI and No. VII show the Pacific company's estimated operating revenues, operating expenses and other deductions, after the first and second year of consolidation applicable only to local exchange business, as reported in its Exhibit No. 4. The revenues and expenses are based on the Pacific company's proposed rates.

TABLE NO. VI.

*Statement Showing Estimated Revenues and Expenses During First Year After Consolidation.*

Item	Burbank	Glendale	Total
Operating revenues .....	\$10,840 32	\$66,250 78	\$77,091 18
Operating expenses and deductions:			
Ordinary repairs .....	\$2,748 44	\$11,587 74	\$14,336 18
Station removals and changes.....	652 81	4,957 58	5,610 39
Depreciation .....	3,684 79	30,740 96	34,425 75
Traffic expense .....	4,880 61	19,738 69	24,619 30
Commercial expense .....	2,684 18	9,199 17	11,883 35
General expense .....	445 66	3,121 76	3,567 42
Uncollectible bills .....	70 00	500 92	570 92
Taxes .....	477 12	4,295 47	4,772 59
Rent of offices.....	378 52	160 38	538 90
Rent of poles, conduits, etc.....	799 47	824 83	1,624 30
Total operating expenses and de- ductions .....	\$16,821 60	\$85,127 50	\$101,949 10
Net loss .....	\$5,981 28	\$18,876 72	\$24,858 00



TABLE NO. VII.

*Statement Showing Estimated Revenues and Expenses During Second Year After Consolidation.*

Item	Burbank	Glendale	Total
Operating revenues -----	\$11,489 55	\$69,694 71	\$81,184 26
Operating expenses and deductions:			
Ordinary repairs -----	\$2,922 94	\$12,174 41	\$15,097 35
Station removals and changes -----	694 25	5,208 58	5,902 83
Depreciation -----	3,918 70	32,298 61	36,217 31
Traffic expense -----	4,994 97	20,738 03	25,733 00
Commercial expense -----	2,854 60	9,664 91	12,519 51
General expenses -----	473 96	3,279 81	3,753 77
Uncollectible bills -----	74 19	526 97	601 16
Taxes -----	505 74	4,518 67	5,024 41
Rent for offices -----	379 70	168 50	548 20
Rent for poles, conduits, etc. -----	850 23	866 59	1,716 82
Total operating expenses and de- ductions -----	\$17,669 28	\$89,445 08	\$107,114 36
Loss -----	\$6,179 73	\$19,750 37	\$25,930 10

### 7. *Franchises.*

In Exhibit No. 15 the Pacific company reports that it is operating in Burbank under city ordinance No. 90; in the city of Glendale under city Ordinance No. 931 amended by Ordinance No. 206. The San Fernando company reports that it is operating under Ordinance No. 108 new series, of Los Angeles County.

J. T. Shaw, representing the Pacific company, stated that his company would continue to operate in Burbank, Glendale and vicinity under the most favorable franchises. I recommend that the Pacific company within sixty days after the order herein advise the commission under what franchise or franchises it will continue to operate in Burbank, Glendale and vicinity. In the event that it will operate under the franchise to be acquired from the San Fernando company, it shall file with the commission the usual stipulation agreeing that it will not at any time for rate fixing or any other purpose claim a value for the rights and privileges granted under the San Fernando franchise in excess of the amount actually paid by the San Fernando company for the grant of such franchise.

I herewith submit the following form of order:

#### ORDER.

San Fernando Valley Home Telephone Company having filed the petition herein, as appears in the opinion which precedes this order, a public hearing having been held and this proceeding having been submitted and being ready for decision,

*It is hereby ordered* that San Fernando Valley Home Telephone Company be and it is hereby granted authority to sell and convey for not exceeding \$103,862.72 the properties described in its Exhibit No. 5 to The Pacific Telephone and Telegraph Company upon the following conditions and not otherwise:

1. The price at which the properties herein authorized to be sold to The Pacific Telephone and Telegraph Company shall never be urged by the purchasing company before this commission or any other regulatory body in any rate fixing or other proceeding as representing the value of the properties described in the San Fernando company's Exhibit No. 5.

2. Within sixty days after the date of this order, The Pacific Telephone and Telegraph Company shall advise the commission whether it will operate in Burbank, Glendale and vicinity under the franchise acquired from the San Fernando company and referred to in the San Fernando company's Exhibit No. 5. In the event that the Pacific company will operate under said franchise, it shall file with the commission within sixty days after the date of this order a stipulation duly authorized by its board of directors agreeing for itself, its successors and assigns, that it will never claim in any proceeding before the Railroad Commission, any court or other public authority, a value for the franchises which are to be conveyed to it by the San Fernando Valley Home Telephone Company in excess of such moneys as may have been paid by the San Fernando Valley Home Telephone Company for said franchises, which money shall be stated in said stipulation, and will have secured from the Railroad Commission a supplemental order reciting that such stipulation in form satisfactory to the Railroad Commission has been filed herein.

3. The authority herein granted shall not become effective until the Railroad Commission has approved the bookkeeping entries relative to the transfer and purchase of the properties of the San Fernando Valley Home Telephone Company.

4. The Pacific Telephone and Telegraph Company shall file with the Railroad Commission monthly reports showing the progress made in reconstructing its telephone system in Burbank, Glendale and vicinity, such reports to include statements showing the use being made of the San Fernando company's properties, a description of the property removed, if any, the cost of removal and the value of the property removed.

5. The Pacific Telephone and Telegraph Company may put into effect the proposed exchange rates set forth in Exhibit No. 9, with the exception that the rates now being charged for suburban business

service in Lankershim, Glendale, Burbank and vicinity shall continue in effect until modified by the order of this commission.

6. Within thirty days after the transfer of the properties herein authorized, The Pacific Telephone and Telegraph Company shall file with the Railroad Commission a certified copy of the instrument of conveyance whereby the properties of the San Fernando Valley Home Telephone Company are sold and transferred to The Pacific Telephone and Telegraph Company.

7. The authority herein granted shall apply only to such property as may be sold and transferred on or before October 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixteenth day of April, 1918.

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DECISION No. 5317.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER ESTABLISHING THE RATES TO BE CHARGED FOR WATER DELIVERED FOR DOMESTIC PURPOSES TO THE CITIES AND TOWNS IN PLACER COUNTY AND THEIR INHABITANTS AND TO THE SOUTHERN PACIFIC COMPANY.

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Application No. 1831.

*Decided April 17, 1918.*

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An increased schedule of rates heretofore established for water delivered by applicant in Placer County having been conditioned upon the delivery of pure, fresh water, and it being shown by applicant that such condition has been complied with, it is authorized to put such schedule into effect on and after May 1, 1918.

The commission can not consider the petition of a municipality that lower than reasonable rates be established to encourage domestic irrigation during the present emergency; the utility's attention is, however, called to the order of the commission permitting the delivery of water at free or reduced rates for the irrigation of foodstuffs, during the present emergency, without prejudicing the rights of the utility.

*C. P. Cullen*, for Pacific Gas and Electric Company.

*A. C. Lowell*, for city of Auburn.

*THELEN*, Commissioner.

**FIRST SUPPLEMENTAL OPINION.**

On July 27, 1917, the Railroad Commission made its order herein specifying the rates which would be just and reasonable to be charged by Pacific Gas and Electric Company for "pure, clear, fresh water"

sold by it to its domestic consumers in Placer County. The order provided that said rates should not be charged "unless and until said company shall first have secured from the Railroad Commission a supplemental order reciting that Pacific Gas and Electric Company is delivering to its said consumers in the county of Placer pure, clear, fresh water."

Pacific Gas and Electric Company has now filed herein a supplemental petition alleging, in part, that the company has completed the construction of the South canal located below its Wise power house; that prior to the completion of said canal it was necessary for the company, in order to take care of the large demand for water for irrigation purposes on the Boardman canal below the town of Newcastle, to augment the supply of water in the Boardman canal with water from the Bear River canal (which water was frequently turbid) at a point just above Lake Arthur, sometimes called the Carburetor; that the completion of the South canal has eliminated the necessity of turning into the Boardman canal water from the Bear River canal, and that the water now supplied by Pacific Gas and Electric Company to its consumers in Placer County is as pure and as clear as can be supplied through an open ditch system from such source of water supply as petitioner owns.

Petitioner also alleges that it has completed the installation of chlorination plants in the towns of Colfax, Auburn, Newcastle and Rocklin and has installed larger water mains in portions of Auburn as directed in said decision of July 27, 1917.

Public hearings on the supplemental petition herein were held in San Francisco on March 30 and April 16, 1918. The second hearing was held for the express purpose of permitting the city of Auburn to introduce testimony as to the present character of the water, but no testimony to this effect was offered by the city. Every opportunity to present testimony has been accorded to the city of Auburn, but no good reason why the petition herein should not be granted was shown.

The testimony shows that the allegations of the supplemental petition are substantially correct and that Pacific Gas and Electric Company has made the improvements which it has heretofore held itself out as intending to make to improve the quality of its water supply.

The testimony shows that on January 25, 1918, petitioner began to depend regularly on the South canal to take care of irrigation requirements below Newcastle, thus relieving the Boardman canal. While Bear River water continued to be mixed with Boardman canal water at the Carburetor throughout February and until March 5, 1918, both Mr. H. M. Cooper, manager of petitioner's Placer water district,

and Mr. P. M. Downing, petitioner's chief engineer, testified that hereafter Bear River water will be run into the Boardman canal only at rare intervals and only in emergencies. Auburn and Newcastle will accordingly be supplied henceforth, except in emergencies, with clear, fresh water conveyed by the Boardman canal principally from Lake Valley and Lake Spaulding.

Mr. A. C. Lowell, representing the city of Auburn, drew the commission's attention to the desirability of not discouraging "war gardens" by increasing the rates for domestic irrigation. While these rates were found by this commission to be reasonable and while this commission can not compel petitioner to supply water at rates less than reasonable, I desire to direct attention to this commission's order of April 28, 1917, authorizing all water utilities to deliver water free or at reduced rates for irrigation during the emergency created by the war. Under this order, petitioner may, if it so desires, without prejudicing its rights, deliver water for the irrigation of foodstuffs during the war, at less than the rates herein authorized.

I submit the following form of supplemental order:

#### FIRST SUPPLEMENTAL ORDER.

Pacific Gas and Electric Company having filed herein its supplemental petition alleging that it has complied with the conditions precedent to the right to charge the rates set forth in the order of July 27, 1917, herein, public hearings having been held, and the Railroad Commission finding that petitioner has made the improvements referred to in the decision of July 27, 1917, and may now be authorized to charge the rates specified in said decision,

*It is hereby ordered* that Pacific Gas and Electric Company be and the same is hereby authorized to charge on and after May 1, 1918, the rates specified in the order of July 27, 1917, herein: provided, that said rates shall have been filed by said company with the Railroad Commission on or before April 25, 1918.

The foregoing supplemental opinion and supplemental order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this seventeenth day of April, 1918.

## DECISION No. 5318.

IN THE MATTER OF THE REASONABLENESS OF THE PRACTICES AND METHODS OF TRANSPORTATION COMPANIES AS DEFINED IN CHAPTER 213, STATUTES OF 1917, WITH REFERENCE TO THE LEASING OF TRANSPORTATION EQUIPMENT.

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Case No. 1202.

*Decided April 17, 1918.*

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It is held that the practice of so-called leasing of cars on a percentage basis is detrimental to the public interest, results in poor service and does not give the car owner the just return for the service he is performing. All automobile transportation companies subject to the jurisdiction of the Railroad Commission are required, on and after 120 days, either to own all their equipment or lease the same for a specified amount on a trip or term basis, such lease not to include the services of a driver. The employment of drivers on leased cars to be on a basis by which the driver shall bear the relation of employee of the transportation company engaging him.

Leasing of equipment or employing drivers on the basis of compensation on a percentage basis and dependent on gross receipts per trip or for any period of time, prohibited on and after the effective date of this order. Status of Star Auto Stage Association as regards above rulings held in abeyance pending further investigation.

*Warren E. Libby*, for Pickwick Stages, Southern Division.

*T. E. Morgan*, for United Stages.

*H. H. Stephens*, for Southern California Stages.

*George M. Waddell*, for White Star Auto Tours Corporation.

*Harry L. Weisbaum*, for Golden State Auto Tours Corporation.

*F. D. Howell*, chief engineer, Board of Public Utilities of the city of Los Angeles.

*Marshall Stimson*, for Sunset Surety Company, owner Liberty Bus line.

*C. B. Gillespie*, for Davis-Schaub Auto Service.

*Carl C. Allen*, for Anchor Line Stages.

*Walter J. Burpee*, for Peerless Auto Stage Association.

*W. A. Latta*, for Star Auto Stage Association.

*O. M. Spangler*, for Union Line of San Mateo.

*J. E. McCurdy*, for Peninsula Rapid Transit Company.

*John V. Filippini* and *Floyd Hanchett*, for California Stages Company.

**THELEN and GORDON**, *Commissioners*.

**OPINION.**

This is a proceeding instituted by the Railroad Commission on its own motion to investigate the practices and methods of transportation companies as defined in chapter 213, laws of 1917, with reference to the leasing of transportation equipment.

The Pickwick Stages, southern division, and Al Hayes, manager; United Stages and T. E. Morgan, manager; Southern California Stages

and H. H. Stephens, manager; White Star Auto Stages and George M. Waddell, manager; Union Auto Stages and J. M. Powers, manager; Star Auto Stage Association and Charles Wade, manager; Anchor Stage Line and Carl C. Allen, manager; Union Line of San Mateo and O. M. Spangler, president; and Peerless Auto Stage Association and Percy L. Bliss, agent, were ordered to appear and to show cause, if any, why the commission should not proceed with this investigation. They were notified that, no good cause appearing to the contrary, the commission would proceed with the investigation and make such order as to the commission might seem reasonable.

Public hearings were held in Los Angeles on March 5, 1918, and in San Francisco on March 6, 1918.

Chapter 213, laws of 1917, approved May 10, 1917, confers on the Railroad Commission jurisdiction over transportation companies engaged in the transportation of persons or property by automobile, jitney bus, auto truck, stage or auto stage as common carriers for compensation over any public highway in this state between fixed termini or over a regular route, so defined in the act.

Section 5 of said chapter 213 provides in part as follows:

“No transportation company shall hereafter exercise any right or privilege under any franchise or permit hereafter granted by any incorporated city or town, city and county, or county, without first having obtained from the railroad commission a certificate declaring that public convenience and necessity require the exercise of such right or privilege, but no such certificate shall be required of any transportation company as to the fixed termini between which or the route over which it is actually operating in good faith on May 1, 1917.”

Some of the transportation companies operating on and prior to May 1, 1917, under the title of “companies” and “associations” have had arrangements whereby the equipment used in their service has not been owned by them but has been leased by them under an arrangement whereby the owner of the equipment either drives the car himself or furnishes an employee as driver. All expenses of maintenance and operation, including also municipal licenses and indemnity bonds, are borne by the owner of the car. The compensation paid to the owner of the car is a percentage of the gross revenue earned by the car, the percentage varying from 80 to 90 per cent of the revenue derived from the operation of the individual car. The car owner is required to protect the schedule of the run to which he is assigned and to comply with all state and municipal regulations. The stage company or lessee is relieved of all responsibility for maintenance or operation and practically acts as a ticket agency or broker. These companies

or associations claim the ownership of the right to operate routes and urge that they were in the business of a transportation company in good faith on May 1, 1917, in accordance with the provisions of section 5 of chapter 213, laws of 1917.

The attention of the commission having been directed to the fact that frequent changes are being made in the owners of cars operating on various routes under the commission's jurisdiction, that operators are claiming rights to certain designated runs by reason of having operated over them as individuals continuously for periods preceding May 1, 1917, and that other individual operators have been placed on runs by the self-styled companies and associations, such individual operators not having operated prior to May 1, 1917, the commission determined that a full investigation into the practice of so-called leasing of equipment was desirable and thereupon initiated this proceeding.

We shall now outline briefly the status of each transportation company cited to appear in this proceeding, as shown by the testimony herein.

The Pickwick Stages, southern division, with headquarters at San Diego, is a copartnership consisting of four members. This line operates between Los Angeles and San Diego, San Diego and El Centro, and El Centro and various points in the Imperial Valley. The copartnership as such owns no equipment. Individuals who are members of the copartnership own nine cars. The remaining thirty-one cars are operated by third parties on a basis whereby a percentage of the receipts from their operation accrues to the car owner. The Pickwick Stages, in return for the percentage retained, furnish offices, pay for advertising and terminal expenses such as ticket clerks, and attend to the filing of schedules with the Railroad Commission. Municipal licenses are taken out in the name of the Pickwick Stages and their cost is charged to the owner of the car. Indemnity bonds, required by some of the municipalities through which the line operates, are taken out in the name of the Pickwick Stages and the cost of such bonds is charged to the owner of the car. Frequent changes have been made in the individual operators who are running under the Pickwick Stages schedules, and it has not been thought necessary to secure the approval of the Railroad Commission in the transfer of individual operators. No evidence was presented indicating that written leases or agreements outlining the method of operation and the rights of the individual car owners and the Pickwick Stages have been executed. The Pickwick Stages presented as an exhibit a suggested form of lease for the approval of the commission. This lease provides for the employment of the car and driver, requires the lessor to pay all licenses and



taxes and to defray all expenses of maintenance and operation. The compensation is to be on a mileage basis on a graduated scale dependent upon the number of passengers carried per trip.

The United Stages, with headquarters at Los Angeles, is a corporation. This line operates between Santa Barbara and Los Angeles, Los Angeles and San Diego, San Diego and Camp Kearny, and San Diego and Imperial Valley and covers local runs in the Imperial Valley. The corporation owns five automobiles and operates approximately fifty-one others under a contract providing a certain compensation per trip with a bonus for business obtained over a fixed minimum. The contracts provide that if service satisfactory to the United Stages is not rendered the owner of the car can be discharged and replaced by another owner on fifteen days' notice. Not over 30 per cent of the operators owning cars and working under the above arrangement were so engaged on May 1, 1917. Local permits in San Diego have been taken out by the United Stages and paid for by that company. In Los Angeles some of the permits have been taken out and have been paid for by the owner of the car. Permits in El Centro have been taken out and paid for by the United Stages. All indemnity bonds, wherever required, have been taken out and paid for by the United Stages. On May 1, 1917, a total of ninety cars were operating under the management of the United Stages. Forms of leases now being used by the United Stages were presented to the commission as exhibits. These leases provide for the leasing of a car on a basis of a fixed sum for each round trip, the lessor to keep the car in good mechanical condition and repair, to furnish a driver to operate, to keep the car equipped in accordance with the requirements of the Railroad Commission, to furnish bond as the same may be required by any municipality and to keep the car at the disposal of the lessee at all times. The contract also carries a bonus clause on the basis of a certain unnamed sum, providing additional compensation for revenue derived from passengers carried in excess of the amount stipulated as minimum compensation for the total trips performed each day.

The Southern California Stages is a copartnership consisting of two members, and having headquarters at Los Angeles. The copartnership owns no cars, all equipment being leased on a basis of a percentage of the earnings being taken by the Southern California Stages in return for terminal facilities, advertising, superintendence and expense of ticket agencies. This line operates between Los Angeles and San Diego and at present is operating four cars under this arrangement. During the year 1916, the line operated as many as seven cars. The indemnity bonds required by municipalities are carried in the name of the southern California Stages, are paid for by the company and are charged

back against the car operators, as are the city licenses in Los Angeles. The licenses in San Diego are paid for by the company and the cost of the same is not charged to the car operator. But one of the four operators on this line was in the service of the Southern California Stages on May 1, 1917. A form of lease was submitted for the information of the commission as an exhibit of the Southern California Stages. This lease provides for the furnishing of a car and driver, the lessor to furnish bond and licenses as required by the lessee and to keep car in good mechanical condition and at the disposal of the lessee. The lessor agrees to operate in the service of and under the direction of the lessee between Los Angeles and San Diego for an agreed price per round trip, based on a minimum of five passengers or less. Additional compensation for each person in excess of five passengers is provided for and is based on a proportion of the tariff rates assessed between San Diego and Los Angeles and intermediate points. The contract provides for cancellation upon thirty days' notice by either party.

The White Star Auto Stages is a copartnership consisting of three members, and operates between San Diego and El Centro and locally in the Imperial Valley. The copartnership as such owns no equipment, although two of the copartners own three cars. Approximately thirty-two cars are operated under either a verbal arrangement or a written form of lease. A form of lease was submitted for the information of the commission as an exhibit of the White Star Auto Stages. This lease provides a one year term. The lessor agrees to provide a car fully equipped and conforming to all state, county, municipal and local laws and ordinances, to devote his full time to the operation of the car, to comply with and obey the orders of the lessee, to defray all cost of maintenance and operation and to pay the cost of insurance against damage arising from fire, accident, theft, and liability accruing from damage to persons or property. The compensation to accrue to the car owner is based on an unnamed percentage of all gross earnings, to be paid daily during the period that the car continues in the service of the lessee. The lease is terminable at the option of the lessee if the car is lost, destroyed or irreparably disabled, or is otherwise unfit or unsafe for passenger service.

The Golden State Auto Tours Corporation, with headquarters in Los Angeles, operates between Los Angeles and San Bernardino, Los Angeles and San Jacinto and Los Angeles and Lancaster. This is a corporation owning and operating six cars in the auto stage business, but owning nine other cars which are operated as sight-seeing cars and in rent and taxi service and which are available for use in case of heavy travel on the stage lines operated by this corporation. One car is operating under a lease and contract of sale entered into on February

22 or 23, 1917, whereby the purchaser agreed to operate under the management of the Golden State Auto Tours Corporation and to reimburse the corporation at the rate of \$7.00 per day until a total amount of \$2,500.00 would have been paid. All schedules and tariffs have been filed by the Golden State Auto Tours Corporation including the schedule of the operator who is purchasing the car and route on the deferred payment plan. As this operator was rendering service in good faith on and prior to May 1, 1917, we are of the opinion that the route covered by him is his individual property and that such operator has an established right which will be recognized so long as his operation is conducted in accordance with the provisions of chapter 213, laws of 1917, and the rules and regulations from time to time established by this commission.

The Anchor Stage Lines, with headquarters at Fresno, is a corporation. Its purpose is to provide terminal facilities for its members and to see that schedules are maintained and that equipment is kept up to a standard satisfactory to the public and in compliance with the local and state requirements. No tariffs or time schedules are filed by the corporation for its members, such members filing their own individual tariffs and time schedules and themselves controlling their own routes. This corporation does not come within the scope of the inquiry in this proceeding for the reason that its activities are confined to the purposes of a joint terminal association for the benefit of its members who retain entirely the control over their individual lines.

The Star Auto Stage Association is organized under section 653b and subsequent sections of the Civil Code of the state of California as a co-operative business association. This association was organized on October 26, 1916, with its principal or home office in the city of Sacramento. The association owns no cars. On May 1, 1917, between fifty-five and sixty members comprised the association. At the date of the hearing herein in San Francisco the association had from forty-five to fifty members. Four or five members belonging to this association on May 1, 1917, have been replaced by other members, some who have surrendered membership have not been replaced by anyone, and some individual members who have surrendered membership have been replaced by three or four individuals. The Star Auto Stage Association takes the position that all runs are the property of the association and that the individual operators on May 1, 1917, have no rights as individuals. The association's by-laws read in part as follows:

#### “ARTICLE II—MEMBERSHIP.

“Sec. 4. Upon election to membership each applicant shall sign these by-laws, which signing shall constitute a contract between the member and this association.

SEC. 5. At the time of becoming a member each person shall bring into and deliver up to the association, for the use and purposes for which it is organized, under such rules as the directors may from time to time adopt, one or more automobiles, auto stages, trucks, or motor conveyances, to be by said member placed in operation upon and over a route to be fixed and selected by said directors, and subject to change; and during his said membership shall keep and operate such auto stage or conveyance in accordance with the rules of the association.

SEC. 6. The board of directors may make rules and regulations relating to admission to membership, and relating to the use and operation of stages and conveyances over the routes covered by the association and its members.

A number of members of the Star Auto Stage Association have informed the commission that they have never executed any documents which they considered as a surrender of their right to operate over a designated route upon which they were operating in good faith on May 1, 1917, either as members of the Star Auto Stage Association at that time or by reason of their having become members of the association since that date. The by-laws themselves contain evidence that the runs, or some of them, may be held by individual operators and not by the association, as appears from section 10 of article II, reading as follows:

#### "ARTICLE II MEMBERSHIP.

"SEC. 10. Any membership in the association shall cease upon such member transferring or disposing of his title to or interest in the automobile or auto stage or truck, or stages or trucks, used and operated by him as a member of the association, *or his right to operate a stage or truck on or over any route within the territory covered by the association*, when such sale shall leave such member without other stages, trucks, or conveyances upon the routes of the association. Any membership shall cease when a majority of the members of the association shall by vote at any regular or special meeting so determine."

From the evidence herein we are unable to reach a satisfactory conclusion on the question whether all the routes operated in the name of the Star Auto Stage Association are held by the association or by individual operators. The question will receive our further attention and investigation and may be the subject of a supplemental opinion and order. This proceeding will, for the present, be held open in so far as Star Auto Stage Association is concerned.

The Union Line of San Mateo is an association organized under date of March 1, 1917, and consists of fourteen members operating out of San Mateo. All the members own their individual routes and file individual tariffs and time schedules. The association is a mutual

arrangement for the handling of the service rendered by the various members, one of same being empowered to supervise the operation of all the runs and to see that each member complies with time schedules, state, county and municipal regulations. All licenses are paid for by the individual members of the association and all indemnity bonds are also taken out and paid for by individual members.

The Peerless Auto Stage Association is an organization operating under articles of incorporation dated April, 1917. The association consisted of twelve members on May 1, 1917, one of whom has surrendered his membership, leaving eleven members in the association at this time. All the members are operating between Oakland and San Jose, and control their individual rights. The association has filed tariffs and time schedules as an association, but it appears that such filing was the result of a misunderstanding as each individual member controls his own run and operates as an individual. We suggest that a cancellation of the association's filings be made and that individual filings be made by the members so that the actual conditions under which the runs are being operated may be reflected. The members of the association have combined for the purpose of using common terminals in Oakland and San Jose and for the mutual use of agents at such terminals, such agents handling ticket sales and directing the operation of the cars so that the same may be operated on the schedules as filed with this commission. No cars are owned by the association as such, nor are any leased, all being under the direct control of the individual members of the association who own their own runs and equipment.

We have carefully considered all the evidence in this proceeding and we find that the practice of so-called leasing of cars on a percentage basis is not desirable from the standpoint of the public interest and does not result in the automobile transportation business being conducted on a stable basis. Under the so-called lease where the entire upkeep of the car, its maintenance and operation falls on the lessor, who hires himself and car to a line claiming rights to operate by reason of having been engaged in this class of business prior to May 1, 1917, and where the operator is burdened with all the expense of licenses, indemnity bonds and other costs, the lessee taking practically no risk nor responsibility, the public does not receive the character of service to which it is rightfully entitled nor does the car owner receive the just return for the service which he is performing.

At the Los Angeles hearing herein, Mr. F. D. Howell, chief engineer of the board of public utilities of the city of Los Angeles, who has had supervision over the regulation of automobile transportation in the

city of Los Angeles, stated that in his observation of conditions with reference to "leased cars" no particular service was rendered to the public by the lessees and that in the case of a ten months' check of licenses issued for interurban stages operating out of the city of Los Angeles it was found that ninety-eight cars had been licensed to care for schedules that could be filled with forty-one cars, or practically 2.4 cars to protect the schedule that would be covered by one car.

At the Los Angeles hearing, representatives of the United Stages, Southern California Stages, Pickwick Stages, White Star Auto Stages, Eldorado Stage Company, Golden State Auto Tours Company, A. R. G. Bus Company, Clark Bus Line and O. R. Fuller, being practically all auto stage companies operating out of Los Angeles, agreed that it would be desirable and satisfactory to them if an order were entered in this proceeding providing that all transportation companies be required to own their equipment or to lease the same on a basis approved by this commission.

We are of the opinion and find as a fact that all transportation companies as defined by chapter 213, laws of 1917, should be required to own their equipment (proprietary control being deemed ownership) or to lease such equipment for a specified amount on a trip or term basis and that the leasing of equipment shall not include the services of a driver or operator. All employment of drivers or operators of leased cars should be made on the basis of a contract by which the driver or operator shall bear the relation of an employee to the transportation company by whom such driver or operator is engaged.

This finding, of course, has no applicability to an individual who owns his car and runs in his own right, even though he belongs to some terminal or other association.

We submit the following form of order:

#### ORDER.

Public hearings having been held in the above-entitled proceeding, the matter having been submitted, the Railroad Commission being fully advised and basing its order on the finding of fact contained in the preceding opinion,

*It is hereby ordered* that, effective one hundred and twenty (120) days from the date of this order, all transportation companies as defined in chapter 213, laws of 1917, shall either own their equipment (proprietary control being deemed ownership) or lease such equipment for a specified amount on a trip or term basis, the leasing of equipment not to include the services of a driver or operator. All employment of drivers or operators of leased cars shall be made on the basis of a contract by which the driver or operator shall bear the relation of an

employee to the transportation company by whom such operator or driver is engaged.

The practice of leasing equipment or employing drivers or operators on the basis of compensation on a percentage basis and dependent on the gross receipts per trip or for any period of time is hereby prohibited from the effective date hereof.

*It is further ordered* that the status of the Star Auto Stage Association, as set forth in the foregoing opinion, be made the subject of further inquiry, investigation and subsequent order of the commission.

The commission hereby reserves the right to make such other and further orders in this proceeding as to it may appear right and proper or as may be required in the regulation of the matter of leased equipment of transportation companies as defined by chapter 213, laws of 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this seventeenth day of April, 1918.

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DECISION No. 5321.

A. V. STORER

*vs.*

POMONA VALLEY TELEPHONE AND TELEGRAPH UNION.

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Case No. 1185.

*Decided April 17, 1918.*

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A telephone utility is required to return to a consumer a deposit of \$3.50 required to assure service for one year when the service is taken for a period of nineteen days less than one year and rental balance for a full year is offered and accepted by the utility, irrespective of whether or not the utility subsequently returns such balance.

BY THE COMMISSION.

**OPINION.**

This is a complaint to compel the defendant, Pomona Valley Telephone and Telegraph Union, a corporation, to refund to complainant the sum of \$3.50 paid by complainant to defendant for the establishment of telephone service at 523 North Gordon street in the city of Pomona, which refund complainant urges should be made under the provisions of the rules and regulations of defendant on file with the Railroad Commission and in effect.

The particular rule of defendant applying in this case permits defendant to exact the payment of \$3.50 for the establishment of service under certain specified conditions. It provides also for the return of this payment to the subscriber after and if service shall have been continuous at the address of installation for twelve months.

Complainant's service at 523 North Gordon street was continuous from September 19, 1916, to August 30, 1917, according to the evidence, nineteen days less than the twelve months' period specified in defendant's rule providing for the return of the payment. Payment of service charges for the remaining nineteen days was tendered by complainant and accepted by defendant prior to the expiration of the twelve months' period, but this payment was later returned and the return of the payment of the \$3.50 originally exacted for the establishment of service refused by defendant.

In the opinion of the commission, defendant's refusal to return to complainant the amount of the charge referred to is not, in view of all of the circumstances as shown by the evidence, in keeping with the spirit and purpose of the rule permitting the charge and providing for its proper return to the subscriber.

#### ORDER.

A. V. Storer having filed complaint with the Railroad Commission versus Pomona Valley Telephone and Telegraph Union, in the above-entitled proceeding, and a public hearing having been held and the commission being fully advised in the premises,

*It is hereby ordered* that Pomona Valley Telephone and Telegraph Union at once refund to A. V. Storer the service installation charge of \$3.50 collected September 19, 1916, under the provisions of its rules and regulations for telephone service at 523 North Gordon street, Pomona, California.

Dated at San Francisco, California, this seventeenth day of April, 1918.

DECISION No. 5322.

MARIE LUMLEY ET AL.

vs.

CENTRAL CALIFORNIA GAS COMPANY.

Case No. 1077.

*Decided April 18, 1918.*

Recommendations made by the commission with reference to improving the service of defendant company having been put into effect by the utility and it now being shown that consumers are receiving a continuous and adequate service, complaint dismissed.

*F. J. Schuhl*, for Complainant.



*Power & McFadzean*, for S. Mitchell, receiver Central California Gas Company.

BY THE COMMISSION.

**OPINION.**

The complainants in this proceeding are residents of the city of Porterville and are consumers of gas served in that territory by the Central California Gas Company, defendants herein.

Complaint herein was filed May 14, 1917, and alleges in effect that for many months prior to the filing of said complaint defendants have, during a portion of the day, failed to furnish gas to the inhabitants of the city of Porterville, and that for several days in the month of April, 1917, defendant failed to furnish gas to any of the inhabitants of the city of Porterville after 4.15 p.m. each day. Complainants pray that defendants be directed by this commission to remedy conditions surrounding the service complained of.

Hearings were held in this matter at Porterville before Examiner Encell on December 18, 1917, and at Visalia on March 15, 1918.

At the hearing held at Porterville on December 18, 1917, Susman Mitchell, as receiver of the defendant gas company, appeared and substantially admitted the allegations of the complaint. He further testified that in managing the property as receiver appointed on behalf of the bondholders of said property, he was taking such steps as were possible to remedy existing conditions.

At this hearing certain recommendations were made by Mr. W. J. Hammond, assistant engineer of the commission's gas and electric department, regarding certain plant adjustments necessary in order to give better service to the residents of Porterville. The matter was then continued by the consent of all parties for a period of sixty days within which time it was agreed on the part of the receiver that the adjustments would be made as recommended.

At the hearing held at Visalia on Friday, March 15, 1918, there was no appearance on behalf of any complainants. The manager of the utility testified that the improvements suggested by Mr. Hammond had been made and that there had been no complaint relative to service since that installation.

**ORDER.**

Complainant having applied to the Railroad Commission for an order directing the defendant, Central California Gas Company, a corporation, to remedy certain defects in the service of its consumers at Porterville, California, and it appearing to the commission after public hearings in relation thereto that certain improvements have been made in the distributing system of the Central California Gas Company which

will probably remove the cause of complaint and the commission having fully considered the facts and proofs adduced and all and singular being advised in the premises; now, therefore,

*It is hereby ordered* that the complaint herein be and it is hereby dismissed.

Dated at San Francisco, California, this eighteenth day of April, 1918.

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DECISION No. 5328.

IN THE MATTER OF THE APPLICATION OF RIVERBEND GAS AND WATER COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN GAS RATES.

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Application No. 3552.

*Decided April 20, 1918.*

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Upon a showing that due to the present increases in the price of oil applicant's present rates would not meet its operating expenses for the current year, it is authorized to put into effect immediately the following schedule: First 600 cubic feet per meter per month, gross \$1.10, net \$1.00; next 2,400 cubic feet per month, gross \$1.70, net \$1.60; next 4,000 cubic feet per month, gross \$1.50, net \$1.40; next 8,000 cubic feet per month, \$1.20, over 15,000 cubic feet per meter per month, \$1.00. The net amount is effective on bills paid within ten days.

*Chaffee E. Hall*, for Applicant.

*C. W. Tackabarry*, for city of Reedley.

*Andrew Erickson*, for city of Kingsburg.

*G. W. Osterhout*, for city of Dinuba.

BY THE COMMISSION.

**OPINION.**

This is the application of the Riverbend Gas and Water Company for an increase in its gas rates.

Applicant operates, among other properties, an artificial gas plant located in Dinuba, which supplies gas to the cities of Dinuba, Parlier, Reedley, Kingsburg and contiguous territory.

Applicant alleges in effect that its contract, by which it secured fuel oil at 81 cents per barrel at the Dinuba plant, expired on January 31, 1918, and that since that date it has been necessary to pay approximately \$1.75 per barrel for the oil necessary in the manufacture of gas. Applicant further alleges that this material increase in the cost of oil will cause a deficit in its gas business for the year 1918 of over \$8,000.00 excluding any allowance for depreciation.

Applicant in its prayer, asks that such rates be fixed as will permit it to pay its operating expenses, depreciation and a reasonable return upon its investment.

Hearing in this proceeding was held before Examiner Encell at Parlier on March 14, 1918, at which time testimony and evidence were introduced relative to the rates, operations and growth of applicant company.

The existing rates charged by applicant for gas service are, in effect, as follows:

*General Gas Service.*

CITY OF DINUBA.

Minimum bill .....	\$1.00 per meter per month
Consumption of—	
4,000 cubic feet or less per month per consumer..	\$1.25 per 1,000 cubic feet
4,000 to 5,000 cubic feet per month per consumer.....	\$5.00
5,000 cubic feet or over per month per consumer..	\$1.00 per 1,000 cubic feet

The rates for service outside of the city of Dinuba differ from the above in that if bills are not paid on or before the tenth of the next succeeding month a rate of 25 cents per 1,000 cubic feet in excess of the above is charged.

The above rates have been in effect since 1915 when service was first rendered but the reasonableness of said rates has not been passed upon by the commission at any time during the operation of the company.

The financial showing for the year 1917 for the operation of the gas properties of the Riverbend Gas and Water Company is set forth as follows:

Reported fixed capital, October 31, 1917.....	\$128,008 24
Gross revenue, year 1917.....	\$35,858 51
Operating expenses exclusive of depreciation.....	29,020 28
	<hr/>
Net revenue available for depreciation and return.....	\$6,838 23
Per cent return available for interest and depreciation.....	5.34 per cent

The commission's gas and electric division made a valuation of applicant's gas properties in 1916, which, although not for rate-making purposes, indicated that at that time the company's books reflected a very fair approximation of the historical reproduction cost of the properties. Since October 31, 1917, applicant has invested considerable additional capital in additions and betterments and extensions to the properties. On March 1, 1918, there was reported a total fixed capital, exclusive of material and supplies and working cash capital, of \$140,763.74.

The above amount increased for materials and supplies and working cash capital together with net additions and betterments is estimated to equal for the year 1918, \$152,250.00 which may be considered as a fair rate base for the purpose of this proceeding.

The operating statistics for the year 1917 and estimates for the year 1918 are as follows:

	1917	Estimate 1918
Total consumers	1,247	1,358
Total gas sales, M cubic feet	33,060	36,679
Barrels oil used	11,500	13,100
Oil cost per barrel	\$0.81	\$1.75
Gas sales per consumer, cubic feet	26,512	27,000
Gallons oil per M cubic feet sold	18.6	15.0
Oil cost per M cubic feet sold	\$0.358	\$0.625
Average revenue per M cubic feet gas sold	\$1.08	.....
Operating expenses other than oil and taxes, total	\$15,804.49	\$17,384.00
Per M cubic feet gas sold	\$0.478	\$0.474

The oil consumption in gallons per 1,000 cubic feet in 1917, was much in excess of what it should be in a plant of the size of applicants. In the 1918 estimates a duty of 15 gallons has been used although applicant, with careful operation, should reduce the oil consumption to approximately 14 gallons.

From the above it will be seen that should the existing rates continue in effect during 1918, applicant would be unable to meet its actual operating expenses.

From analysis of the sales it is estimated that the rates set forth in the following order will return applicant a revenue of \$1.55 per 1,000 cubic feet sold. With these rates in effect, applicant should realize a return upon its investment, for interest and depreciation, of approximately 8 per cent provided it reduces its oil consumption per 1,000 cubic feet sold to that which should be obtained.

Applicant commenced operations in 1915 and was still, in 1917, in the development stage. Its rates have been lower than those generally charged on similar situated systems and because of this fact a material increase is found to be necessary at this time.

The rates herein fixed are comparable with rates determined to be fair and reasonable in similarly situated communities and we believe them to be fair and reasonable for applicant under the present emergency conditions.

#### ORDER.

Riverbend Gas and Water Company having applied to increase its gas rates, and hearing having been held and the matter having been submitted and being now ready for decision, and the Railroad Commission finding as a fact that the existing rates under present conditions of cost of operation are unjust and unreasonable, and further finding as a fact that applicant should be granted authority to increase its rates to those set forth in the order,

*It is hereby ordered* that Riverbend Gas and Water Company be and the same is hereby authorized to charge and collect the following rates for gas. Such rates shall be applicable to all regular meter readings made after the date of this order, provided Riverbend Gas and Water Company shall have filed with the commission said rates on or before May 10, 1918:

*General Service.*

First 600 cubic feet or less per meter per month-----	\$1.10, gross; \$1.00, net
Per 1,000 cubic feet per meter per month-----	
Next 2,400 cubic feet-----	\$1.70, gross; \$1.60, net
Next 4,000 cubic feet-----	1.50, gross; 1.40, net
Next 8,000 cubic feet-----	\$1.20
All over 15,000 cubic feet-----	1.00

The net amount is effective on all bills paid within ten days after the bill is rendered.

Dated at San Francisco, California, this twentieth day of April, 1918.

Decision No. 5329.

IN THE MATTER OF THE APPLICATION OF CATHERINE A. BROOKS, OWNER OF LAGUNA HEIGHTS WATER SYSTEM, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO SERVE WATER IN THE UNINCORPORATED TOWN OF LAGUNA BEACH, ORANGE COUNTY, CALIFORNIA.

Application No. 3620.

*Decided April 20, 1918.*

Applicant granted a certificate authorizing the exercise of rights obtained under a franchise permitting the construction and operation of a water distributing system in and adjacent to the unincorporated town of Laguna Beach, provided a stipulation be filed to the effect that no value shall ever be claimed for such franchise in excess of its actual original cost.

*H. J. Forgy*, for Applicant.

*Jas. S. Bennett*, for Laguna Cliffs Water Company.

BY THE COMMISSION.

**OPINION.**

This is an application by Catherine A. Brooks for a finding by this commission that public convenience and necessity require the exercise by her of certain franchise rights, secured from the county of Orange, said rights being contained in Ordinance No. 154 of the board of supervisors of Orange County.

The ordinance grants to Catherine A. Brooks a franchise to lay, maintain and operate a system of pipe lines for the conveyance of water for domestic and agricultural purposes, over and along certain

county roads, streets, avenues and alleys in the county of Orange, state of California, and particularly that portion of Orange County known as Laguna Beach.

Laguna Beach is an unincorporated city, or town, in Orange County and has a permanent population of approximately two hundred (200) people; during the summer months the population exceeds seven hundred fifty (750).

At the present time the business section and the major portion of the residential section of Laguna Beach are without water service other than that which is obtained by privately-owned wells or cisterns. In a portion of Laguna Beach another water utility, known as the Laguna Cliffs Water Company, is operating, but under the terms of agreement by which they acquired their water supply are restricted to furnishing water in certain tracts which lie without the bounds of the portion of the town of Laguna Beach covered by the franchise obtained by applicant herein.

The applicant herein has developed a water supply of approximately forty (40) miner's inches in Laguna Canyon, at a distance about three (3) miles from Laguna Beach.

The evidence shows that one of the principal causes retarding the development of Laguna Beach is its lack of an adequate water supply. Evidence was also offered to the effect that the residents of Laguna Beach desire service sought to be established by applicant and were willing to pay a just and reasonable rate for the service rendered. No opposition or protest was made to the granting of the certificate herein sought.

#### ORDER.

Catherine A. Brooks, having applied to this commission, under section 50 of the Public Utilities Act, for permission to exercise the rights and privileges under a franchise granted her by an ordinance of the county of Orange passed on the nineteenth day of March, 1918, authorizing her, her successors and assignees to lay and maintain for a term of thirty (30) years, water pipes with all necessary cross pipes and connections in, across and along that portion of the roads, streets, avenues and alleys herein referred to in the foregoing opinion, and fully described in said ordinance or franchise which is hereby referred to and made a part hereof; and a public hearing having been held and the matter now being ready for decision.

The Railroad Commission of the state of California hereby declares that public convenience and necessity require the exercise by applicant of the rights and privileges granted her by said franchise; provided, that Catherine A. Brooks shall within thirty (30) days from date hereof

file with this commission a stipulation agreeing that she, her successors and assignees, will not claim before the Railroad Commission of the state of California, or any other public authority, any value for the said franchise granted from the said county of Orange, in excess of the actual cost thereof, which cost shall be stated in said stipulation, and shall have secured from this commission a supplemental order herewith declaring that such stipulation, satisfactory to this commission, has been filed with the commission.

Dated at San Francisco, California, this twentieth day of April, 1918.

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DECISION No. 5334.

CALIFORNIA ASSOCIATED RAISIN COMPANY

*vs.*

SOUTHERN PACIFIC COMPANY, SOUTHERN PACIFIC RAILROAD COMPANY, AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

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Case No. 1208.

*Decided April 20, 1918.*

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Complainant petitions the commission to compel defendants to construct spur tracks for the purpose of serving its proposed plant, which spurs defendants are willing to construct with the exception that the Southern Pacific Company refuses to permit Santa Fe Railway Company to cross its Porterville branch line, and investigation showing that there is no other way in which such spurs can be constructed, Santa Fe Railway Company granted permission to cross the Porterville branch of Southern Pacific Company, also to construct a crossing at grade across East street and California avenue, provided it submit plans satisfactory to the commission providing for the reconstruction of the present interlocking plant at the proposed crossing so that it will protect the spur track also.

*W. A. Sutherland*, for Complainant.

*George D. Squires*, for Southern Pacific Company.

*Platt Kent*, for The Atchison, Topeka and Santa Fe Railway Company.

*GORDON*, *Commissioner*.

**OPINION.**

Complainant herein alleges that it is about to let contracts for the construction of a large plant for the purpose of treating, preparing and packing raisins in the city of Fresno; that to properly and expeditiously handle its business the plant must be in operation on or before the first of October, 1918; that nothing can be done toward the construction of the plant until arrangements have been completed for the construction of spur track facilities to handle freight; that it has for some months past repeatedly requested defendants to install these

spur tracks but that they have not yet agreed to furnish them, that the spur tracks can be constructed without a material increase in the hazard of operation of the railway lines, since the lead for the spur track connecting with the Santa Fe line would cross the Porterville branch of the Southern Pacific within a few feet of the Santa Fe's main line crossing where it would be under the protection of an interlocking plant now installed. Complainant further says that it expects to handle over one thousand cars per annum originating at exclusive points of each of the two lines, making an estimated total of about 2,000 cars; that by having a connection with both tracks it would save a great deal of time and money which would be lost if either one of the two defendant railroads served the plant alone, and that by expediting the service cars would be released twelve to twenty four hours earlier than if one railroad served the plant. Complainant files a map showing the proposed plant, the railroads in the vicinity, and the spur tracks it desires to have constructed, and asks the commission to require the railroads to install the tracks.

In answer to the complaint Southern Pacific Company states that it is willing to install the spur track facilities desired by complainant but that it is unwilling to permit the Santa Fe to cross its Porterville line of railroad, as the plan of the complainant for spur tracks would materially increase the hazard of operation. The company further states that this plant can be reached by the main line of the Santa Fe from the north, thus serving it as adequately as under the proposed plan and making it unnecessary to cross the Southern Pacific Porterville line and obviating the dangers and hazards to be incurred by such construction.

The Santa Fe, in its answer, states that it is willing to provide the spur track facilities substantially as proposed by the complainant, and that it has found no better way of serving the plant than that proposed. It states, however, that it has been unable to agree with the Southern Pacific Company regarding the crossing over its Porterville branch, and for that reason has been unable to carry out the proposed plans.

A public hearing was held on this case on Saturday, April 13, 1918. Both companies are willing to construct the spur tracks to serve the plant of the complainant in accordance with the plans proposed so far as their own tracks are concerned, and the Santa Fe has no objection to the entire scheme. The Southern Pacific, however, does not believe that the Santa Fe should be permitted to cross its Porterville branch and its proposed spur track which would leave the Porterville branch and serve the eastern side of complainant's plant.



The proposed plant of the California Associated Raisin Company lies north of California avenue, south of Hamilton avenue, west of East street and east of Pearl avenue. The main line of the Santa Fe is immediately east of and parallel to East street, while the Porterville branch of the Southern Pacific is located on the northerly side of California avenue. The two lines cross at a point on California avenue east of East street, and the crossing is protected by an interlocking plant, as stated. Complainant's plans for spur track facilities contemplate two spurs leaving the Southern Pacific Porterville branch, curving around an angle of 90 degrees and eventually running north and south through and into their proposed buildings. It is planned to bring the Santa Fe tracks in from an industry track extension to the west of its main line over a track crossing the Porterville branch about one hundred feet west of the intersection of that track with the main line of the Santa Fe. Just north of the crossing two tracks would serve complainant's buildings; one on the east side and one on the west. To reach the west side the proposed spur would cross the proposed spur of the Southern Pacific to the east side.

There is in my mind no doubt about the desirability and the need of spur tracks from both railroads to serve this plant even under present conditions. If only one company has track facilities there will be a delay of from twelve to twenty-four hours on all cars originating on the other line and shipped to the plant, resulting in a delay to the cars and a very serious inconvenience to complainant's business. It would undoubtedly be better to have the Santa Fe come in from the north than from the south across California avenue, and the track of the Southern Pacific on that street, but to follow this course it would be necessary for complainant to secure right of way for the Santa Fe or for that company itself to secure it. Complainant has attempted to do this but the owner of the property immediately north of Hamilton avenue which it would be necessary to acquire absolutely refuses to sell it. Under these circumstances the possibility of a spur track from the north seems to be disposed of and the question narrowed down into an inquiry as to whether or not the Santa Fe can safely be permitted to cross the tracks of the Porterville branch and the proposed spur of the Southern Pacific.

It is the opinion of representatives of the Santa Fe that the present interlocking plant can be reconstructed to protect the crossings and permit trains to operate in absolute safety. Under the commission's General Order 33 all plans for the construction or reconstruction of interlocking plants must be approved by the commission, and I am of the opinion that the commission should permit the Santa Fe to make

the crossings referred to provided it can work out interlocking plans which will be satisfactory to the commission's engineering department, when those plans are sent for the approval of the commission under General Order No. 33.

Both companies, as I have stated, expressed their willingness to build these spur tracks provided the commission approved the crossing, so it is unnecessary to make a formal order requiring their installation. I believe, however, that in this proceeding permission should be granted the Santa Fe to cross the track of the Southern Pacific as well as East street and California avenue, two streets which it will be necessary to cross and which are not within the limits of the city of Fresno.

I recommend the following form of order:

#### ORDER.

California Associated Raisin Company having asked the commission to require the Southern Pacific Company (Southern Pacific Railroad Company) and The Atchison, Topeka and Santa Fe Railway Company to construct spur tracks; and it appearing for reasons set forth in the foregoing opinion that it is unnecessary to make a formal order in this regard, but that permission should be granted one railroad to cross the tracks of the other, and the necessary streets and highways.

*It is hereby ordered* that The Atchison, Topeka and Santa Fe Railway Company be and the same hereby is granted permission to cross the Porterville branch of the Southern Pacific Company approximately at the point and in the manner shown in the map attached to the application, subject to the following conditions:

(1) The Atchison, Topeka and Santa Fe Railway Company shall submit to the commission, prior to the installation of the crossing, plans covering the reconstruction of the present interlocking plant to protect the proposed crossings, and secure the commission's approval thereof.

*It is hereby further ordered* that The Atchison, Topeka and Santa Fe Railway Company be and hereby is granted permission to construct its spur track across East street and California avenue subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first class condition for the safe and convenient use of the public, shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

(2) Said crossings shall be constructed of a width and type to conform to that portion of the streets to be crossed now graded, with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

*It is hereby further ordered* that the commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of these crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twentieth day of April, 1918.

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DECISION No. 5337.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN CALIFORNIA GAS COMPANY TO INCREASE RATES.

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Application No. 1853.

*Decided April 23, 1918.*

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It is held that a gas utility exercising good judgment in the construction of one central gas generating plant in place of two smaller plants heretofore operated, which construction resulted in marked economies and a direct saving to its consumers, should be allowed a sum sufficient to amortize that part of its non-operative generating plants that are no longer to be considered as used or useful in its gas business.

Though the Railroad Commission is not convinced that the distribution of a lower heat unit gas will not cause a proportionate increase in sales, it is of the opinion that the distribution of 560 B.t.u. per cubic foot average per month with a minimum heat content of 530 B.t.u. instead of 600 B.t.u. gas has an advantage in that it will result in economies in operation which will react to the benefit of consumers.

It is considered inequitable to spread an increase in rates equally over each 1,000 cubic feet of gas sold, as the operating costs of serving sparsely settled and outlying districts is considerably higher than the cost to serve well built up districts, the outlying sections should be obliged to pay a proportionately higher rate.

Two revised schedules of rates established, one for the cities of San Bernardino and Riverside, the other for smaller incorporated towns and unincorporated territory, such rates to become effective for meter readings made on and after May 5, 1918, and to be for gas of a monthly average heat content of 560 B.t.u. per cubic foot.

*Jared How*, for Applicant.

*Wm. Guthrie*, city attorney, for the city of San Bernardino.

*A. H. Winder*, city attorney, for the city of Riverside.

*M. O. Hert*, city attorney, for the city of Colton.

*R. E. Dodge*, city attorney, for the city of Rialto.

*EDGERTON*, Commissioner.

**OPINION.**

In this application the commission is asked to fix the rates for the service of gas to all consumers of Southern California Gas Company, applicant alleging that the rates are now unreasonably low.

The properties of the Southern California Gas Company are composed of two systems, entirely separate from each other, the one serving natural and mixed gas in Los Angeles County, the other serving artificial gas in Riverside and San Bernardino counties. That part of the application which pertains to the Los Angeles District was combined with Case No. 845—*City of Los Angeles vs. Los Angeles Gas and Electric Corporation and Southern California Gas Company*—the same having been decided in this commission's Decisions No. 4559 and No. 4853, decided August 21, 1917, and November 19, 1917, respectively.

The commission in this proceeding is asked by all parties concerned to fix the quality of gas to be served, as well as the rates charged for gas served by applicant in the incorporated cities of San Bernardino, Riverside, Colton and Rialto, Highland, Highgrove and contiguous territory.

Applicant's gas properties in San Bernardino and Riverside counties consists of an artificial oil gas plant near Colton, transmission mains to San Bernardino, Riverside and outlying districts, and the necessary distribution systems, together with gas production plants in San Bernardino and Riverside superseded by the Colton plant.

Southern California Gas Company serves in competition with Citrus Belt Gas Company in San Bernardino and part of Colton, the business in the former city being divided about two-thirds to applicant. The other cities and towns are served by applicant exclusively.

Citrus Belt Gas Company has also asked for an increase of rates. Its application No. 2787, as far as it applies to service in the cities of Redlands and Corona, was passed upon by the commission in Decision No. 4682, issued September 1, 1917. The application in so far as it applies to service in San Bernardino and Colton is this day being decided.

At the time applicant purchased the San Bernardino and Riverside gas properties in 1911, the properties included gas generating plants located in each of the above-mentioned cities. Soon after acquiring these properties, applicant decided to build and operate one large generating plant to be located near Colton, from which point transmission lines would connect the then separate systems. Construction of the Colton plant was completed early in 1912, and since that date the generating plants located in San Bernardino and Riverside have not been in active operation.

Considerable testimony was submitted to show that the construction of the Colton plant resulted in marked economies and has been and will continue to be in the future a direct saving to the consumer.

I do not believe that the company should be penalized for exercising apparent good judgment in constructing the plant at Colton, and in computing the rates herein I have allowed a sufficient sum to amortize that part of the nonoperative generating plants which may no longer be considered used and useful in the gas business.

*Rate base.*

The commission's engineers submitted a report on the reproduction cost new of both the operative and nonoperative properties in this district as of October 1, 1915. Applicant did not submit a separate valuation, accepting the commission's engineers' report, but submitted evidence regarding readjustments in operative and nonoperative property, and also called attention to certain other items which were omitted.

From a careful consideration of the valuation submitted and the testimony and arguments pertaining thereto, the following appears to be a fair capital basis upon which to compute a return:

TABLE NO. 1.

*Summary of Rate Base, Depreciation Annuity and Amortization Annuity,  
October 31, 1915.*

	Rate base	Depreciation annuity 6 per cent S. F.
<b>Operative property:</b>		
Colton plant .....	\$116,163 00	\$1,700 36
San Bernardino division .....	315,031 00	8,671 28
Riverside division .....	254,216 41	5,265 84
Total operative .....	\$715,410 41	\$15,637 48
Working cash capital and material and supplies ..	21,000 00	
Total rate base .....	\$739,410 41	\$15,637 48
<b>Nonoperative property:</b>		
San Bernardino division .....	\$11,406 98	\$14,412 61
Riverside division .....	18,061 88	10,717 33
Total .....	\$59,468 86	\$25,159 94
		\$3,421 75

The depreciation allowance made in this case has been determined upon the 6 per cent sinking fund basis. The amortization allowance is based upon a ten-year period using the 6 per cent sinking fund, at the same time allowing 6 per cent on the unamortized balance.

*Operating expenses.*

Operating expenses have in general been estimated on a basis of the past operations of this system, due consideration being given to increase in labor, oil and taxes. This does not include, however, a continuance of the high maintenance expenses such as those recently incurred due to the welding of applicant's transmission lines, as this was considered as an extraordinary repair. Attention should be called to the material advance in the price of fuel oil as this item alone will increase the company's operating expenses over those of 1917 by approximately \$40,000.00. During 1916 and 1917 applicant purchased oil at 70 cents per barrel delivered at Colton. This contract expired December 31, 1917. Since the submission of this case, applicant has entered into a contract with the General Petroleum Company for the purchase of oil for the year 1918 at \$1.35 per barrel at the fields, making a total, including freight and taxes thereon of \$1.49 per barrel at Colton. It is estimated that the fuel oil consumption at the Colton plant for the year 1918 will approximate 50,000 barrels. Other material increases in operating costs have occurred, among which are labor, material and taxes, all of which have been considered in computing the rates established in the order.

The Southern California Gas Company has served, according to records, a gas having an average heat content of 603 B.t.u. per cubic foot. An ordinance of the city of Riverside requires an average monthly heat content of 600 B.t.u. per cubic foot with an allowable minimum of 550 B.t.u. The ordinance of the city of San Bernardino requires applicant to serve gas having a heat content of not less than 600 B.t.u. per cubic foot. It is apparent that both cities have received the same quality of gas and that the San Bernardino ordinance determined the quality of gas served in the past.

Applicant urged through its gas experts that more efficient service could be had by lowering the heat content requirements to less than 600 B.t.u. per cubic foot; that such reduction would not result in a proportionate increase in sales, although some increase might result and also that with the lower heat unit gas a more uniform quality could be supplied, resulting in better service and more efficient combustion.

It was understood at the hearings that the commission would determine and fix the quality of gas to be served.

I am not fully convinced by applicant that the lower heat unit gas will not cause a proportionate increase in sales. In this case I am impressed, however, with the applicant's request and believe that if applicant can

show economies in the future by the delivery of a reduced heating value gas, it should be given the opportunity of providing its ability. I have, therefore, in this case concluded to fix the standard quality of all gas served by applicant in this district at 560 B.t.u. per cubic foot average per month with a minimum heat content of 530 B.t.u. The estimates of sales, oil consumption, etc., have been varied as a result of the reduction in the quality of the gas to be served over that which has been served in the past.

This should insure the consumers at least as good service as previously enjoyed, and at the same time give them the benefit of economies which applicant professes can be realized thereby. Pending proof to the contrary, I will assume that the sales will increase approximately in proportion to the reduction in heat content.

Considerable evidence was submitted regarding future growth, as well as regarding the effect of the reduction in the heat content of the gas served. This has been carefully considered in estimating the sales for the year 1918. I have allowed additions to capital for new business and an increase in working capital, bringing the rate base for 1918 up to \$750,000.00.

The following table shows the estimates upon which the average rate is based:

TABLE NO. 2.

*Estimated Operating Expenses and Total Return, 1918.  
Based upon 560 B.t.u. Gas.*

Total production .....	225,000,000 cubic feet
Total sales .....	195,800,000 cubic feet
Rate base .....	\$750,000 00
Operating expenses, other than oil .....	65,873 00
Oil .....	74,500 00
Fixed charges:	
Interest at 8 per cent .....	60,000 00
Depreciation annuity .....	15,740 00
Amortization annuity .....	3,421 75
Total .....	\$79,161 75
Operating expenses .....	140,373 00
Fixed charges .....	79,161 75
Uncollectible bills .....	1,898 70
Taxes at 5.6 per cent .....	13,079 55
Total return .....	\$234,513 00
Average rate per 1,000 cubic feet sold .....	1.1977

Having determined the total sum which must be obtained yearly from applicant's consumers as gross revenue, it now becomes necessary to spread this burden in rates over the various classes of consumers.

Inasmuch as the average rate is somewhat higher than that received during the previous year by applicant the simple method would be to

spread the increase equally over each 1,000 cubic feet of gas sold. However, I believe that the present form of rates are not equitable to the consumers in the various districts, and further that the more just basis would be to fix an entirely new schedule, taking into account the cost of service in each district, at the same time considering the benefits that accrue to each district because of its connections with the other districts.

The city of Riverside requested that the same schedule of rates be made applicable throughout that city. A similar request was also made by the city of San Bernardino. The outlying districts are at present being served at a greater cost than in the more congested districts, and should, in the future, pay a higher rate than chargeable to the larger cities.

The existing rates are:

**SCHEDULE A-8.**

*General Service.*

Riverside, Arlington district ..... \$1.20, less 10 cents per 1,000 cubic feet  
Minimum charge 50 cents. Discounts effective if bill is paid by the tenth of the month.

**SCHEDULE A-9.**

*General Service.*

San Bernardino ..... \$1.00, net, per 1,000 cubic feet  
Loma Linda ..... 1.25, net, per 1,000 cubic feet  
Colton ..... \$1.25, less 10 cents per 1,000 cubic feet  
Highland ..... 1.50, less 10 cents per 1,000 cubic feet  
Rialto ..... 1.50, less 10 cents per 1,000 cubic feet  
No minimum charge. Discounts effective if bill is paid by the tenth of the month.

While the rates established in the following order should net applicant an 8 per cent return upon the rate base, the exact rate of return is largely dependent, however, upon the effect of the reduction in the quality of gas and the effect of the present abnormal economic conditions upon the gas sales for the ensuing year. If applicant's engineers' contention that the sales will not materially increase with reduced heat content is correct, the rate of return will be decreased slightly and any loss of consumers due to increased rates will tend also to reduce the net rate of return.

I submit the following form of order:

**ORDER.**

Southern California Gas Company having applied to the Railroad Commission for an order establishing the rates to be charged by said company for the service of gas to its consumers in its Riverside and San Bernardino District, and hearings having been held, briefs having been filed, and this proceeding being now ready for decision,



The Railroad Commission hereby finds as a fact that the existing rates of the Southern California Gas Company for the service of gas in these districts are unjust and unreasonable, and that the rates herein established are just and reasonable.

Basing its order on the foregoing findings of facts, and upon other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the Southern California Gas Company be and the same is hereby authorized to file with the Railroad Commission and make effective for meter readings made on and after May 5, 1918, the following schedule of rates for gas, having a monthly average heat content of 560 B.t.u. per cubic foot, and a minimum heat content of 530 B.t.u. per cubic foot.

#### SCHEDULE "A."

##### *General Service. Cities of San Bernardino and Riverside.*

Rate per meter per month:

First 3,000 cubic feet.....	\$1.20 per 1,000 cubic feet
Next 5,000 cubic feet.....	1.10 per 1,000 cubic feet
Next 7,000 cubic feet.....	1.00 per 1,000 cubic feet
All over 15,000 cubic feet.....	.80 per 1,000 cubic feet
Minimum monthly charge, 60 cents.	

#### SCHEDULE "B."

##### *General Service. Territory Outside the Corporate Limits of San Bernardino and Riverside, including Colton, Rialto and other Incorporated Towns and Unincorporated Territory Served.*

Rate per meter per month:

First 500 cubic feet or less.....	.75 cents
Next 2,500 cubic feet.....	\$1.30 per 1,000 cubic feet
Next 5,000 cubic feet.....	1.15 per 1,000 cubic feet
Next 7,000 cubic feet.....	1.00 per 1,000 cubic feet
All over 15,000 cubic feet.....	.80 per 1,000 cubic feet
Minimum monthly charge, 75 cents.	

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-third day of April, 1918.

#### DECISION No. 5338.

IN THE MATTER OF THE APPLICATION OF CITRUS BELT GAS COMPANY FOR AN INCREASE IN ITS GAS RATES.

Application No. 2787.

*Decided April 23, 1918.*

When a gas utility is in direct competition with another utility of the same nature in the same locality it is necessary that the rates of both utilities be identical.

irrespective of whether one utility receives a fair return or not. Revised schedule of rates established for gas delivered by applicant in the towns of San Bernardino and Colton, such rates to become effective for meter readings made on and after May 5, 1918, and to be for gas of an average monthly heat content of 500 B.t.u.

*P. J. Dubbell, and Z. T. Bell, for Applicant.*

*Wm. Guthrie, city attorney, for city of San Bernardino.*

*M. O. Hert, city attorney, for city of Colton.*

*EDGERTON, Commissioner.*

#### OPINION.

Citrus Belt Gas Company asks that the commission increase its gas rates in the cities of San Bernardino, Redlands, Colton and Corona.

Applicant operates an artificial gas plant in San Bernardino serving that city and Colton; another in Redlands, and a third in Corona. In the latter two cities applicant is the only gas company serving, while in San Bernardino and Colton it competes with Southern California Gas Company.

The matter of this application in so far as it affects the question of rates in Redlands and Corona was decided by this commission in its Decision No. 4682 issued September 16, 1917. Owing to the competitive conditions existing in San Bernardino and the fact that there was pending before the commission at the times of hearing and decision regarding Redlands and Corona, the application of Southern California Gas Company, Application No. 1853, for a determination of rates in San Bernardino, that part of this application pertaining to the service in San Bernardino and Colton, was heard in conjunction with hearing held at San Bernardino in Application No. 1853.

The existing rates charged by applicant in the cities of San Bernardino and Colton are as follows:

#### SCHEDULE "A."

##### *San Bernardino.*

\$1.00 per 1,000 cubic feet per meter per month.

No minimum charge.

#### SCHEDULE "C."

##### *Colton.*

\$1.50 per 1,000 cubic feet per meter per month.

Twenty-five cents per 1,000 cubic feet discount if bill is paid before the tenth of the month. Minimum charge, 50 cents per meter.

Citrus Belt Gas Company alleges in effect that in the past it did not receive a fair rate of return upon its investment used and useful in the service of gas in the several towns; that the cost of oil has materially increased and that an increase of rates is necessary to cover such increased cost.

In this application Citrus Belt Gas Company requests authority to increase its rates for artificial gas sufficiently only to reimburse it for the increased operating expenses caused by the advanced price of fuel oil used in the manufacture of gas.

Applicant operates an artificial gas manufacturing plant in San Bernardino, a distribution system serving the main portion of that city, and a transmission line to Colton and distribution system therein. The company is in direct competition with Southern California Gas Company in the entire territory served by it in San Bernardino and to a slight extent in competition with that company as regards service in the city of Colton.

The gross revenue for the year 1916 as reported by applicant for the two cities is as follows:

San Bernardino .....	\$27,581 44
Colton .....	16,435 35

Applicant's financial showing for the year 1916-17 for the San Bernardino and Colton properties combined is set forth as follows:

*San Bernardino and Colton.*

		1917
Reproduction new value (applicant's report).....	\$257,440 00	\$258,100 00
Gross operating revenue.....	44,016 79	43,822 17
Operating expenses (excluding depreciation).....	33,404 04	41,225 60
Net operating revenue.....	\$10,612 75	\$2,596 57
Per cent return for interest and depreciation.....	4.12	1.01

The commission has not had a detailed check made of the valuation of applicant's properties which is used in connection with the service in San Bernardino and Colton. A comparative check of the same on basis of the cost of similar plants tends to show that this estimate is not sufficiently different in any way to affect the findings in this matter.

As will be noted from the above, the company's earnings for interest and depreciation in 1916 were only 4 per cent and were practically 1 per cent in 1917. This would appear to be largely due to the competitive conditions existing in San Bernardino and to the marked increase in the price of oil during the latter year.

Statistics for the year 1916, operations of the San Bernardino and Colton systems, as reported by applicant in its annual report to the commission are as follows:

Total oil used .....	12,315 barrels
Gas sold .....	40,185,700 cubic feet
Number of consumers.....	1,770
Sales per consumer.....	22,700 cubic feet
Gallons oil per 1,000 cubic feet sold.....	12.87
Average revenue per 1,000 cubic feet sold.....	\$1.09

During the year 1916 applicant paid \$0.855 per barrel for the oil used in the manufacture of gas. This price increased in 1917 to \$1.44 per barrel, while the present market price of oil at San Bernardino is \$1.60 per barrel. This increase in the cost of oil amounts to approximately 23 cents per thousand cubic feet of gas sold over the cost in 1916. According to the testimony, there has also been a material increase in the cost of labor and supplies.

It is apparent from the above that in order to realize the same return as was realized in 1916, it would be necessary in 1918 for applicant to secure a revenue of at least \$1.35 per thousand cubic feet of gas sold. Applicant received in 1917 practically no return upon its investment and even to earn an amount equal to that received in 1916 it will be necessary for it to have a material increase in rates.

The commission in its Decision No. 5337, in Application No. 1853, this day being decided, has fixed a rate in the city of San Bernardino for the Southern California Gas Company based upon the delivery of gas of 560 B.t.u. per cubic foot average monthly heat content with a minimum heat content of 530 B.t.u. per cubic foot. Necessarily, the same quality of gas should be served by both companies and I therefore recommend that the rates for the Citrus Belt Gas Company be based upon the same quality of gas as fixed for the Southern California Gas Company.

Citrus Belt Gas Company is in direct competition with Southern California Gas Company for the service in San Bernardino and it necessarily follows that the rates for the two companies must be identical regardless of whether the applicant in this case will receive a fair return upon its investment or not. Applicant receives a considerably smaller portion of the business in San Bernardino and it is therefore not probable that it will be able to receive a fair return.

Applicant competes with Southern California Gas Company to a small extent in the city of Colton and it does not appear advisable that a different rate be fixed for this company than for Southern California Gas Company in that town and I therefore recommend that as regards rates for the Citrus Belt Gas Company in the town of Colton, that they be the same as fixed for Southern California Gas Company.

I therefore recommend the following form of order:

#### ORDER.

Citrus Belt Gas Company having applied to the Railroad Commission for authority to increase its gas rates, and a hearing having been held and this proceeding being now ready for decision,

The Railroad Commission hereby finds as a fact that the existing rates of Citrus Belt Gas Company for gas service in the towns of San Bernardino and Colton are unjust and unreasonable and that the rates herein established are just and reasonable.

Basing its order on the foregoing findings of fact and on other findings of fact contained in the opinion preceding this order,

*It is hereby ordered* that Citrus Belt Gas Company be and the same is hereby authorized to charge and collect the following rates for gas of an average monthly heat content of 560 B.t.u. per cubic foot with a minimum of 530 B.t.u. per cubic foot. Such rates shall be applicable to all regular meter readings made on and after May 5, 1918, provided Citrus Belt Gas Company shall have filed with the Railroad Commission said rates on or before May 4, 1918.

SCHEDULE "A." GENERAL SERVICE.

*City of San Bernardino.*

Rate per meter per month:

First 3,000 cubic feet-----	\$1.20 per 1,000 cubic feet
Next 5,000 cubic feet-----	1.10 per 1,000 cubic feet
Next 7,000 cubic feet-----	1.00 per 1,000 cubic feet
All over 15,000 cubic feet-----	.80 per 1,000 cubic feet
Minimum monthly charge, 60 cents.	

SCHEDULE "B." GENERAL SERVICE.

*City of Colton.*

Rate per meter per month:

First 500 cubic feet or less-----	75 cents
Next 2,500 cubic feet-----	\$1.30 per 1,000 cubic feet
Next 5,000 cubic feet-----	1.15 per 1,000 cubic feet
Next 7,000 cubic feet-----	1.00 per 1,000 cubic feet
All over 15,000 cubic feet-----	.80 per 1,000 cubic feet
Minimum monthly charge, 75 cents.	

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-third day of April, 1918.

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DECISION No. 5344.

PALO ALTO GAS COMPANY

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

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Case No. 1144.

*Decided April 29, 1918.*

REPARATION --CONTRACT RATES.-- Railroad Commission has jurisdiction to make award of reparation under section 71, Public Utilities Act, where rate complained of is a contract rate and not one established by the commission, and even though the rate complained of had not yet actually been paid.

*Louis Oncal and William F. James, for Palo Alto Gas Company.*  
*C. P. Cutton, for Pacific Gas and Electric Company.*

THELEN and DEVLIN, *Commissioners*.

**OPINION ON MOTION TO DISMISS**

This is a motion to dismiss the complaint by reason of alleged absence of jurisdiction to award reparation.

The complaint herein was filed on September 8, 1917. It alleges, in effect, that Palo Alto Gas Company, hereinafter at times referred to as the Palo Alto company, and Pacific Gas and Electric Company, hereinafter at times referred to as the Pacific company, are both public utilities engaged in the business of selling gas; that the Palo Alto company is a consumer and patron of the Pacific company and now purchases and for more than two years last past has purchased gas from the Pacific company for sale by the Palo Alto company to the inhabitants of the city of Palo Alto and its vicinity; that the Pacific company threatens to compel the Palo Alto company to pay 60 cents per thousand cubic feet for all gas sold by the Pacific company to the Palo Alto company and sold by the latter company to its customers for more than two years last past; and that said rate of 60 cents per one thousand cubic feet of said gas was and is excessive, unreasonable and unfair. The Palo Alto company asks the Railroad Commission to fix a just and reasonable rate to be paid by the Palo Alto company to the Pacific company and to order the Pacific company to make reparation to the Palo Alto company for the excessive charges of the past and for further relief.

The answer alleges that the Palo Alto company ceased to be a customer of the Pacific company on September 22, 1917, on which day the possession and operation of the Palo Alto company's gas system were transferred to the city of Palo Alto; denies that said rate of 60 cents per one thousand cubic feet of gas was or is excessive, unreasonable or unfair; alleges that all gas sold by the Pacific company to the Palo Alto company was sold under a contract dated March 18, 1905, a copy whereof is attached to the answer as Exhibit "A"; alleges that all gas bought by the Palo Alto company prior to March 31, 1913, was paid for at the price specified in said contract but that from April 1, 1913, to date the Palo Alto company has paid to the Pacific company only 54 cents per one thousand cubic feet of gas instead of 60 cents per one thousand cubic feet of gas claimed by the Pacific company to be due under said contract; and alleges that the Palo Alto company now owes to the Pacific company the sum of \$10,609.00 on account of gas so sold by the Pacific company to the Palo Alto company. The answer sets forth a number of jurisdictional defenses all of which, however, the Pacific company expressly withdrew at the hearing herein except the defense that the Railroad Commission has no jurisdiction to award reparation on the facts of this case.

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The Palo Alto company being no longer a customer of the Pacific company, the issue in this proceeding is reduced to the question of reparation.

Public hearings were held in San Francisco on January 3 and 4, 1918. After evidence bearing on the issue of reparation had been presented, the Pacific company made its motion to dismiss, urging that the Railroad Commission has no jurisdiction, on the facts of this proceeding, to award any reparation. The parties asked for and were granted permission to file briefs on this motion. The briefs have been filed and a decision may now be made on said motion.

The Pacific company bases its motion on the following propositions:

1. That the Railroad Commission's power to award reparation is limited to cases in which the alleged unreasonable or excessive rate was theretofore actually paid in full by the consumer.

2. That the Railroad Commission has no power, in any event, to award reparation unless the commission has first affirmatively established a rate and the public utility later charges a rate higher than the rate thus established.

3. That the Railroad Commission has no power to grant reparation in a case in which the rate was originally established by a contract unless the rate had theretofore been changed by agreement of the parties or act of the commission.

4. That the issue of reparation can not be raised unless at least 25 consumers join in the complaint.

5. That, in any event, the Railroad Commission can award reparation only as to rates paid or charges made within two years prior to the filing of the complaint.

We shall consider these points in order.

#### 1. Actual Prior Payment of Alleged Excessive Rate.

The complaint herein was filed in reliance on section 71 of the Public Utilities Act, reading as follows:

“(a) When complaint has been made to the commission concerning any rate, fare, toll, rental or charge for any product or commodity furnished or service performed by any public utility, and the commission has found, after investigation, that the public utility has charged an excessive or discriminatory amount for such product, commodity or service, the commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection; *provided*, no discrimination will result from such reparation.

(b) If the public utility does not comply with the order for the payment of reparation within the time specified in such order, suit may be instituted in any court of competent jurisdiction to recover the same. All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from

the time the cause of action accrues, and the petition for the enforcement of the order shall be filed in the court within one year from the date of the order of the commission. The remedy in this section provided shall be cumulative and in addition to any other remedy or remedies in this act provided in case of failure of a public utility to obey an order or decision of the commission."

Defendant urges that under the language of this section reparation can be awarded only in cases in which the excessive or discriminatory charge concerning which complaint is made has first actually been paid by the consumer. Defendant draws attention, in this connection, to the fact that in the present case, while the defendant has continuously claimed 60 cents per thousand cubic feet of gas, the Palo Alto company, subsequent to April 1, 1913, has paid only 54 cents.

Defendant relies in this connection on *Paine Lumber Company, Ltd.*, vs. *Chicago and North Western Railway Company*, 16 Wisconsin Railroad Commission Reports, 633, in which case it was held that the Railroad Commission of Wisconsin has no jurisdiction to award reparation unless the charge claimed to be excessive has first been paid by the consumer. The case is not persuasive here for the reason that the Wisconsin statute provided that the commission might award reparation only in cases where the charge complained of had actually been "exacted." Section 71 of the Public Utilities Act applies where an excessive or discriminatory amount has been "charged." Section 71 does not require that the excessive or discriminatory amount shall actually have been exacted or paid.

To require a customer who has been charged an excessive or discriminatory rate to first pay the charge before he can apply to the Railroad Commission for relief would seem to be an unnecessary and useless burden which the statute will not be assumed to intend unless clearly required by its language, which is not the case here.

The reference in section 71 to the payment of interest by the utility refers to cases in which the excessive or discriminatory charge was paid.

## **2. Necessity for Prior Establishment of Rate by Railroad Commission.**

The defendant next urges that the Railroad Commission has no jurisdiction to award reparation unless the commission has first established a rate and the public utility thereafter charges an amount higher than the rate thus established.

This contention finds no support in the language of section 71.

It has been the uniform practice of the Railroad Commission to award reparation in appropriate cases entirely irrespective of whether the charge complained of had theretofore been established by the



commission. The most recent cases in which this commission awarded reparation in cases in which the charge complained of had merely been filed with the commission and had not been established by the commission are:

*Phocair Milling Company vs. Southern Pacific Company*, Case No. 1061, decided on September 8, 1917.

*Pacific Portland Cement Company vs. Tidewater Southern Railway Company*, Case No. 1129, decided on October 29, 1917.

*City Street Improvement Company vs. Southern Pacific Company and Peninsular Railway Company*, Case No. 1122, decided on December 6, 1917.

As is well known, the Interstate Commerce Commission follows the same practice under a reparation statute very similar to section 71 of the Public Utilities Act.

Defendant bases its contention in this respect not on any language in section 71 but on a number of decisions by other state railroad or public utility commissions holding that they have no power to award reparation under statutes which limit their jurisdiction to the establishment of rates for the future.

*Charlesworth vs. Omro Electric Light Company*, 16 W. R. C. R. 23, P. U. R. 1915, B. 1;

*Rhodes-Burford Home Furnishing Company vs. Union Electric Light and Power Company*, 2 Mo. P. S. C. R. 656, P. U. R. 1916, B. 645.

These decisions do not apply here for the reason that section 71 very clearly shows that it is intended to apply to excessive or discriminatory charges irrespective of whether the rate was established by the Railroad Commission or merely filed by the utility. Under the provisions of sections 22 and 23, Article XII, California State Constitution, the power of the legislature to enact section 71 can not reasonably be questioned. (*The Pacific Telephone and Telegraph Company vs. Railroad Commission of California*, 166 Cal. 640.)

The instances to which the defendant would limit the authority of the Railroad Commission to award reparation are cases of "illegal" rates as to which recovery would lie in court without any proceeding before the Railroad Commission. We do not so read section 71.

### 3. Rate Established by Contract.

Defendant next urges that the Railroad Commission has no authority to award reparation herein for the reason that the rate was originally established by contract.

Defendant does not question the jurisdiction of the commission to alter or modify a contract rate established by a public utility but does

challenge the power of the commission to award reparation in such a case as long as the rate remains unchanged by act of the parties or the commission.

We do not find anything in section 71 thus limiting the jurisdiction of the commission. An excessive or discriminatory rate may as well be established by contract as by filing by the public utility without contract. We do not agree in this respect with the decision of the Public Utilities Commission of Idaho in *Taylor vs. Northwest Light and Water Company*, P. U. R. 1916, A. 372.

Attention should also be directed to the fact that the contract in this instance expired on June 1, 1915, and that the contract was not renewed or extended. The contract was entered into on March 18, 1905, between United Gas and Electric Company and Palo Alto Gas Company and was limited to a term of 10 years "from and after the date when the gas company shall commence delivery of gas to the consumer," which date was June 1, 1905. The Pacific company is the successor of United Gas and Electric Company under this contract. At the time the contract expired, a controversy existed between the parties as to the rate to be paid and other matters and the contract was not renewed or extended. With reference to the rate, the Palo Alto company paid 54 cents per thousand cubic feet continuously after the expiration of the contract, although the contract provided for one-half of the rate charged by the Palo Alto company to its consumers, which rate was \$1.20 per thousand cubic feet. With reference to the quality of the gas, the contract provided that the gas should contain 600 B.t.u. but the gas actually delivered for some time prior to the expiration of the contract, as testified to by complainant, contained approximately between 500 and 525 B.t.u. With reference to the pressure, the contract provided for a pressure between 30 and 80 pounds, whereas the actual pressure was frequently less.

#### 4. Claim for Reparation by Less than 25 Consumers.

Relying on section 60 of the Public Utilities Act, defendant urges that the Railroad Commission has no jurisdiction to entertain a claim for reparation unless made by 25 consumers.

Section 60 provides in part that "no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water or telephone corporation, unless the same be signed by the mayor or the president or chairman of its board of trustees or a majority of the council, commission or other legislative body of the city and county, or city or town, if any, within which the alleged violation occurred, or not less

than 25 consumers or purchasers, or prospective consumers or purchasers, of such gas, electricity, water or telephone service."

Section 71 specifically refers to the "complainant" in reparation cases and seems clearly to contemplate that a complaint for reparation may be filed by a single complaint. We believe that the specific provisions of section 71, referring to reparation, must be construed to prevail over the general provisions of section 60 and that an individual consumer who has been compelled to pay an excessive or discriminatory rate is not to be denied relief merely because he can not induce 24 other consumers to join him in a reparation complaint or induce the Railroad Commission to institute an investigation on its own motion.

#### 5. Statute of Limitations.

Defendant, finally, urges that if the Railroad Commission has jurisdiction to award reparation, this power can be exercised only with reference to charges as to which the cause of action arose within two years prior to the filing of the complaint. The complaint herein was filed on September 8, 1917.

Section 71 (b) of the Public Utilities Act reads in part as follows:

"All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from the time the cause of action accrues, and the petition for the enforcement of the order shall be filed in the court within one year from the date of the order of the commission."

The Palo Alto company asks reparation back to April 1, 1913. The company seeks to avoid the two-year limitation by a reliance on the general rule of equity that where a party is induced to refrain from instituting suit or pursuing a remedy until his right is lost, the party through whose act or inducement the remedy has been barred will be estopped from setting up or urging as a defense the bar of the statute of limitations and by testimony tending to show that the Palo Alto company was induced by acts of the Pacific company to refrain from earlier filing a complaint with this commission.

We deem it unnecessary to consider the testimony in this regard, for while this principle is applicable to estop a defendant from urging the bar of the statute where the statute goes simply to the remedy, we do not understand that it applies to revest jurisdiction in a tribunal when by lapse of time the right itself has terminated.

The question whether the two-year period mentioned in section 71 (b) goes merely to the remedy or whether it is a condition of the right itself was carefully considered by this commission in *James Mills Sacramento Valley Orchard and Citrus Fruit Company vs. Southern*

*Pacific Company and The Atchison, Topoka and Santa Fe Railway Company*, Vol. 9, Opinions and Orders of Railroad Commission of California, p. 80. In this case, which involved a claim for reparation on shipments of fruit trees, neither defendant railroad pleaded the bar of the statute and one of the railroads expressed a willingness to waive the defense if it could legally do so. This commission held that the two-year provision in section 71 goes to the right and not the remedy and that the defense can not be waived. The decision was based largely on the decision of the Supreme Court of the United States in *A. J. Phillips Co. vs. Grand Trunk Railway Co.*, 236 U. S. 662, construing a similar provision in the Interstate Commerce Act. At page 83, this commission said:

"It is true that this legal bar was not pleaded as a defense by either of the defendants and that the Santa Fe has impliedly expressed its willingness to waive this defense, if it can legally do so. We are of the opinion, however, that the provision of the Public Utilities Act above quoted is further distinguishable from the ordinary statute of limitations to the extent that it need not be affirmatively pleaded and can not be waived in a case of this kind by a carrier. The reasoning of the Supreme Court of the United States in the case of *A. J. Phillips Co. vs. Grand Trunk Railway Co.*, 236 U. S. 662, is no less binding on us than it is convincing. The court was, it is true, construing the federal statute, which might be considered as being somewhat stronger than ours, as that statute provides that 'all complaints for the recovery of damages shall be filed with the commission within two years from the time the cause of action accrues, and not after.' The court decides the question partly on the strength of this phrase, but its reasoning is such as to apply just as strongly to the present case, and we feel that we can not explain our position better than by quoting the following language of Justice Lamar (p. 667):

'Under such a statute the lapse of time not only bars the remedy but destroys the liability (*Finn vs. United States*, 123 U. S. 227, 232) whether complaint is filed with the commission or suit is brought in a court of competent jurisdiction. This will more distinctly appear by considering the requirements of uniformity which, in this, as in so many other instances, must be borne in mind in construing the Commerce Act. The obligation of the carrier to adhere to the legal rate, to refund only what is permitted by law and to treat all shippers alike would have made it illegal for the carriers, either by silence or by express waiver, to preserve to the Phillips company a right of action which the statute required should be asserted within a fixed period. \* \* \* *To permit a railroad company to plead the statute of limitations as against some and to waive it as against others would be to prefer some and discriminate against others in violation of the terms of the Commerce Act, which forbids all devices by which such results may be accomplished.* The prohibitions of the statute against unjust discrimination relate not only to inequality of charges and inequality facilities, but also to the giving of preference by means of consent judgment or the waiver of defenses open to the carrier. The railroad company therefore was bound to claim the benefit of the statute here and could do

so here by general demurrer. For when it appeared that the complaint had not been filed within the time required by the statute, it was evident, as a matter of law, that the plaintiff had no cause of action.' "

To the same effect see *Easton vs. Beaumont Land and Water Company*, Vol. 10, Opinions and Orders of the Railroad Commission of California, p. 686.

We conclude that in so far as the jurisdiction of the Railroad Commission under the provisions of section 71 of the Public Utilities Act is concerned, the Pacific company could not voluntarily waive the two-year provision and hence could not be deemed estopped by conduct on its part from pleading this defense.

We conclude that the Railroad Commission has jurisdiction to consider the issue of reparation in this proceeding but only as to causes of action which may have accrued on and subsequent to September 8, 1915. The motion to dismiss must accordingly be denied.

We submit the following form of order:

**ORDER.**

Pacific Gas and Electric Company, defendant in the above-entitled proceeding, having moved that the complaint herein be dismissed for want of jurisdiction, and careful consideration having been given to said motion,

*It is hereby ordered* that said motion be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-ninth day of April, 1918.

DECISION No. 5349.

IN THE MATTER OF THE APPLICATION OF R. A. ROSE, OPERATING UNDER THE NAME OF FAIR OAKS ELECTRIC COMPANY, FAIR OAKS, CALIFORNIA, FOR AN ORDER AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE OF INDEBTEDNESS.

Application No. 3363.

*Decided April 29, 1918.*

BY THE COMMISSION.

**OPINION.**

R. A. Rose, doing business under the trade name of Fair Oaks Electric Company, applies for authority to issue note for \$5,500.00 and use the proceeds for refunding notes for \$5,275.00 and for other

purposes specified in the order, and to execute deed of trust securing the payment of said note.

A public hearing was held upon the application by Examiner Westover at San Francisco.

Applicant operates a system for distributing electrical energy for light and power purposes in and about Fair Oaks, Sacramento County, and he reports the present cash value of his system as \$8,300.58. A check of the inventory and appraisal of the system by the commission's engineers indicates that the valuation is reasonable.

Applicant reports gross revenue for 1917 of \$2,860.00, maintenance and operation \$1,925.00, in which is included \$1,093.20 for electric energy purchased, leaving the net operating revenue of \$935.00. Since the hearing, applicant has made definite and final arrangement for the loan.

#### ORDER.

R. A. Rose, engaged in distributing electrical energy for light and power purposes in and about Fair Oaks, Sacramento County, under the trade name of Fair Oaks Electric Company, having applied to the Railroad Commission for authority to issue note and execute deed of trust herein referred to, and a public hearing having been held upon said application, and the commission finding that the proceeds of said notes are reasonably required for the purposes specified in the order, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that said R. A. Rose be and he is hereby authorized and empowered to issue to Fair Oaks Bank note for \$5,500.00 due 5 years after date, with interest at a rate not exceeding 7 per cent per annum, payable semiannually, with the privilege of making partial payments thereon at any time; and also to execute deed of trust securing the payment of said note covering the property embracing applicant's electrical distributing system, upon the following conditions:

1. The authority herein granted to execute a deed of trust shall not become effective until applicant has filed with the Railroad Commission a copy of its proposed deed of trust and the Railroad Commission has approved the same by a supplemental order herein.

2. Said note shall be issued at par without payment of commission or allowance of discount, and shall bear interest at a rate not exceeding 7 per cent per annum.

3. Of the proceeds of said note \$5,275.00 shall be used by applicant for the purpose of refunding notes dated and in favor of payees as follows:

December 27, 1912, to George P. Robinson and H. A. Buffum.....	\$4,800.00
September 1, 1917, Fair Oaks Bank.....	475.00

The remaining \$225.00 of the proceeds of said note may be used for capital purposes in making minor extensions in system and such modifications in the construction of the present lines to conform to the statutes governing the safe construction of electrical systems as may be properly chargeable to capital account.

4. Nothing herein contained shall be construed as a finding by the commission of the value of applicant's property for any purposes other than those of this proceeding.

5. The approval herein given of the execution of the deed of trust is for this proceeding only and is not intended as an approval of said deed of trust as to any other legal requirement to which it may be subject.

6. Applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the note herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission as required by the Railroad Commission in its General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority herein granted to issue a note shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

8. The authority herein granted shall apply only to such note as may be issued and such deed of trust as may be executed and delivered within ninety (90) days from date hereof.

Dated at San Francisco, California, this twenty-ninth day of April, 1918.

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DECISION No. 5350.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING SALE OF REAL PROPERTY.

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Application No. 3524.

*Decided April 29, 1918.*

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BY THE COMMISSION.

**ORDER.**

East Bay Water Company having applied to the Railroad Commission for authority to sell certain real property, which real property is specifically described in "Schedule of nonoperative real property of East Bay Water Company," which is attached to the application herein,

and it appearing to the Railroad Commission and it being found as a fact that all of the property listed in said schedule other than parcel No. 15-23, described as follows:

All that real property situated in the city of Oakland, county of Alameda, state of California, described as follows:

Piece of land adjoining Fitchburg Homestead Tract bounded on the north by Damon avenue; on the east by lands of Ensign; on the south by Mary street; on the west by estate of Damon, containing two and 30/100 acres; being the land described in the deed from Nathaniel Damon and Laura M. Damon to R. R. Thompson, recorded in Volume 341 of Deeds, page 447, Records of Alameda County, and in the deed from John Whalan and Ellen Whalan to R. R. Thompson, recorded in Book 357 of Deeds, page 10, records of Alameda County, except the portion thereof heretofore conveyed by R. R. Thompson to John Whalan.

And parcel No. 22-81, described as follows:

All that real property situated in the city of Oakland, county of Alameda, state of California, described as follows:

Commencing at the point of intersection of the westerly line of Webster street with the southerly line of First street; thence running westerly along the southerly line of First street one hundred (100) feet; thence at right angles southerly one hundred (100) feet; thence at right angles westerly seventy-five (75) feet; thence at right angles southerly one hundred (100) feet; thence at right angles easterly one hundred and seventy-five (175) feet to the westerly line of Webster street; and thence northerly along said line of Webster street two hundred (200) feet to the point of commencement, being lots numbered fourteen (14) to twenty-six (26) inclusive, in block numbered two hundred and three (203), as said lots and block are laid down and so numbered and delineated on a certain map entitled "Official Map of the city of Oakland" compiled from records and surveys by J. E. Whiteher, 1860, filed in the County Recorder's office of said Alameda County.

Saving and excepting therefrom such portion thereof as was adjudged to be the property of James P. Taylor in and by the final decree in that certain action entitled "*James P. Taylor, Plaintiff, vs. Contra Costa Water Company et al., Defendants.*" in the Superior Court of said county of Alameda, No. 22,251, which said decree was filed with the clerk of said court on January 14, 1907, and entered on the 21st day of January, 1907, in Book 59 of Judgments, at page 252, Records of said court;

is nonoperative property, as to the conveyance of which the consent of the Railroad Commission is not necessary; and the Railroad Commission being of the opinion that as to the said parcels No. 15-23 and No. 22-81 the application for authority to transfer should be granted, and that there is no need for a public hearing.

*It is hereby ordered* that East Bay Water Company be and it is hereby authorized to convey said parcels of property designated in said schedule as No. 15-23 and No. 22-81, provided that the authority



herein granted shall apply only to such conveyance as is made on or before June 30, 1918; and provided, further, that a certified copy of the conveyance shall be filed with the Railroad Commission within twenty (20) days after the same is executed.

Dated at San Francisco, California, this twenty-ninth day of April, 1918.

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DECISION No. 5351.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE BOARD OF TRUSTEES OF THE CITY OF HERMOSA BEACH BY ORDINANCE NUMBER THREE HUNDRED FOURTEEN ON MAY 3, 1916.

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Application No. 3687.

*Decided April 29, 1918.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise by it of the rights and privileges conferred upon it by the franchise granted by the board of trustees of the city of Hermosa Beach in Ordinance No. 314, adopted May 3, 1916, in which ordinance the city of Hermosa Beach grants to applicant the right to place, erect and maintain poles, wires and other appliances and conductors, and to lay underground conductors for wires for the transmission of electricity for telephone and telegraph purposes in, upon and under the streets, alleys, avenues, thoroughfares and public highways in the city of Hermosa Beach, and to exercise the privilege of operating telephone and telegraph instruments, and of doing a telephone and telegraph business within said city of Hermosa Beach; and it appearing to the Railroad Commission that this is not a case in which a public hearing is necessary, and that the application should be granted,

It is hereby declared that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges granted to it by the city of Hermosa Beach in Ordinance No. 314; provided, that applicant shall not claim before the Railroad Commission or any other public body a value for said franchise for rate fixing or other purposes in excess of the actual cost to applicant

of acquiring said franchise from the city of Hermosa Beach, which cost is stated in said application to be \$372.14.

Dated at San Francisco, California, this twenty-ninth day of April, 1918.

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DECISION No. 5352.

IN THE MATTER OF THE JOINT APPLICATION OF T. M. ALEXANDER, MABEL ALICE REGAL, J. G. WHEELER AND CITY OF SAN DIEGO FOR PERMISSION TO CONVEY TO SAID CITY CERTAIN WATER DISTRIBUTING SYSTEMS LOCATED IN SAID CITY OF SAN DIEGO.

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Application No. 3692.

*Decided April 29, 1918.*

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BY THE COMMISSION.

**ORDER.**

T. M. Alexander, Mabel Alice Regal and J. G. Wheeler having applied to this commission for authority to transfer to the city of San Diego, in accordance with the form of agreement attached to the application herein and marked "Exhibit C," a certain public utility water system situated within the city of San Diego and described as follows:

A two-inch water pipe commencing at a point on the west side of 61st street in said city of San Diego, distant 33 feet north from the north line of Akins avenue; thence south along the west side of said 61st street a distance of 2,000 feet, more or less, to the south boundary line of lot eighteen (18) of Cave & McHatton's Subdivision, according to the map thereof No. 159, filed in the office of the County Recorder of San Diego County March 30, 1887; thence westerly along the said boundary line of lot eighteen (18) a distance of 600 feet; also a one-inch water pipe continuing along the south boundary line of said lot eighteen (18) to the intersection of the center line of 59th street of said city; thence south along the said center line of 59th street a distance of 625 feet, to the end of said pipe; together with one 2-inch Trident meter, one  $\frac{3}{4}$ -inch Trident meter, and one  $\frac{1}{4}$ -inch Trident meter;

Together with a right of way and easement 16 feet wide, for the operation, construction and maintenance of a water main to be used in connection with a water distributing system hereinabove described, and also as a public highway and road; the center line of said right of way being the north line of lot seventeen (17) and the south line of lot eighteen (18) of said Cave & McHatton's Subdivision in the city of San Diego, California;

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof;

and the city of San Diego having joined in the application, and it appearing to the Railroad Commission that a public hearing is not necessary,

*It is hereby ordered* that the application herein be and the same is hereby granted; provided, that the authority herein granted to convey shall apply only to such conveyance as is made on or before June 30, 1918; and provided, further, that a certified copy of said conveyance shall be filed with the Railroad Commission within twenty (20) days after the same is executed.

Dated at San Francisco, California, this twenty-ninth day of April, 1918.

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DECISION No. 5358.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY  
FOR AN ORDER PRELIMINARY TO THE ISSUANCE OF A CERTIFI-  
CATE OF PUBLIC CONVENIENCE AND NECESSITY RELATIVE TO  
THE EXERCISE OF RIGHTS OF FRANCHISE NOT YET SECURED.

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Application No. 3537.

*Decided April 30, 1918.*

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*R. E. Matteson*, for Midway Gas Company.

*O'McVeny, Milliken & Teller*, by *R. B. Reppy*, for Southern California Gas Company.

*Paul Overton*, for Los Angeles Gas and Electric Corporation.

*EDGERTON*, Commissioner.

**OPINION.**

Midway Gas Company applies for an order preliminary to the issuance of a certificate that public convenience and necessity will require that it exercise rights and privileges under a certain franchise to be obtained from the county of Los Angeles for the transmission and distribution of gas for light, heat and industrial purposes within a certain definite portion of Los Angeles County.

Applicant states that it is negotiating for the purchase of casing head gas in different portions of Los Angeles County which if obtained will result in the saving and conservation of all gas purchased and in the conservation of fuel oil; that it has applied to the board of supervisors of the county of Los Angeles for a franchise, a copy of which proposed franchise is attached to the application, marked Exhibit A.

The proposed franchise which had not been purchased at the time of the hearing, grants to the purchaser the right to transmit and

distribute gas for light, heat and industrial purposes for a period of forty years throughout that portion of the county of Los Angeles described as follows:

“Beginning at the intersection of the high water mark of that part of the Pacific Ocean known as San Pedro Bay with the boundary line between Los Angeles and Orange counties; thence following the easterly boundary line of Los Angeles County northerly and easterly to its intersection with the southerly boundary line of the Angeles National Forest Reserve; thence following the courses of the said southerly boundary line of the Angeles National Forest Reserve in a general westerly direction to its intersection with the range line between ranges 12 and 13 west; thence southerly along the said range line between ranges 12 and 13 W., to its intersection with the southerly line of the Bairdstown Addition to Los Angeles City, as said addition was annexed to the city of Los Angeles, June 10, 1915; thence westerly and southerly along the said boundary line of the city of Los Angeles to its intersection with the high water mark of that part of the Pacific Ocean known as San Pedro Bay; thence following the said high water mark of the Pacific Ocean in a generally easterly direction to the point of beginning.

Excepting therefrom any portions of said territory now within the limits of any incorporated city.”

Under the terms of this franchise, applicant obligates itself to serve consumers for industrial and domestic purposes along the lines which it may hereafter construct under the franchise.

The territory covered by the franchise is partly served with gas by Southern Counties Gas Company, Los Angeles Gas and Electric Corporation and Southern California Gas Company which distribute gas for domestic and commercial purposes.

Los Angeles Gas and Electric Corporation and Southern Counties Gas Company opposed the granting of a certificate of public convenience and necessity to Midway Gas Company for the distribution and sale of gas generally throughout the territory covered by the franchise on the ground that they were already serving a large portion of that territory.

Midway Gas Company desires the right to transmit gas for sale and delivery to other gas corporations and following the hearing in this application the attorneys for the opposing companies agreed that if the rights of Midway Gas Company under the certificate requested were limited by the following clause that they would not oppose the granting of a certificate of public convenience and necessity:

“This order is made upon the condition that until further order of the commission, the right and privilege under said franchise shall be exercised only to the extent of carrying through the system of gas pipes and pipe-lines and appliances to be constructed

gas for delivery and sale within the territory covered by said franchise to other public utility corporations furnishing and distributing gas to domestic and industrial consumer."

This condition was stated as agreeable to applicant.

I believe under the circumstances that public convenience and necessity will require the exercise by Midway Gas Company of certain rights and privileges under a franchise similar to that set forth in Exhibit A of this application.

I recommend the following form of order:

**ORDER.**

Midway Gas Company having applied for an order of the Railroad Commission preliminary to the issuance of a certificate that public convenience and necessity will require the exercise by it of rights and privileges under a certain franchise to be obtained from the county of Los Angeles and a hearing having been held and the matter being submitted and ready for decision,

The Railroad Commission hereby declares that hereafter upon application of Midway Gas Company made after said company has obtained a franchise from the county of Los Angeles, which franchise is generally described in the foregoing opinion, it will, under such rules and regulations as the Railroad Commission may prescribe, issue an order declaring that public convenience and necessity require the exercise by Midway Gas Company of the rights and privileges granted in said franchise under the conditions as set forth in the opinion preceding this order and under such other terms and conditions as the Railroad Commission may at that time designate.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirtieth day of April, 1918.

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DECISION No. 5359.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA WHARF  
AND WAREHOUSE COMPANY FOR AUTHORITY TO INCREASE  
WAREHOUSE RATES AT STOCKTON AND BRENTWOOD.

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Application No. 3464.

*Decided April 30, 1918.*

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*Sanborn & Rochl, by H. H. Sanborn, for Applicant.*

BY THE COMMISSION.

## OPINION.

Public hearings on this application were held before Examiner Westover at Brentwood and Stockton, respectively. At each of these hearings it was shown by applicant's witnesses that notices thereof in the form furnished by the commission had been duly forwarded to the individual patrons of applicant's warehouses, but no one appeared at the hearings to protest the granting of the increases sought.

Applicant's present and proposed rates covering the storage and handling of grain at Brentwood, as set forth in the original application, are as follows:

	Present rates (per ton)	Proposed rates (per ton)
Storing -		
For one month .....	\$0.50	\$0.50
For two months .....	.50	.75
For three months .....	.75	1.00
For season, ending May 31 .....	1.00	1.00
Receiving, weighing and loading into cars .....	.25	.35
Reweighting .....	.10	.10

At Stockton the present and proposed rates covering grain, beans, onions and potatoes, the principal commodities stored by applicant, are as follows:

*Grain.*

	Present rates (per ton)	Proposed rates (per ton)
*Storing -		
For one month .....	\$0.50	\$0.50
For two months .....	.50	.75
For three months .....	.75	1.00
For season ending May 31 .....	1.00	1.00
Transferring -		
Ex car or vessel .....	.15	.25
Ex team .....	.25	.35
Reweighting .....		.10
Loading box cars -		
In addition to regular storage charge (when piled in vertical tiers to a height of 7 bags or more applicable to entire contents of cars) .....		.10
Loading or unloading gondolas -		
In addition to regular storage charge .....		.15
Stenciling bags .....		.3
Delivering, lots less than 2 tons - 25 cents each delivery.		

\*When piled in vertical tiers not exceeding 7 sacks.

*Beans.*

	Present rates (per ton)	Proposed rates (per ton)
Storing -		
For one month .....	\$0.50	\$0.50
For two months .....	.75	.75
For season ending August 31 .....	1.00	1.00
Transferring, through warehouse .....		.25
Delivering, less than 1 ton - 25 cents each delivery.		

*Onions and Potatoes.*

	Present rates (per sack)	Proposed rates (per sack)
Storing—		
For one month.....	3¢	3¢
For each month thereafter.....	1¢	1¢
Transferring (including 10 days' storage).....	1½¢	Cancel
Delivering—		
In lots L.C.L.—250 sacks—25 cents each delivery.....		Cancel
In lots less than 1 ton—25 cents each delivery.....		
Loading—"decked" cars, per car.....		60¢

In addition to the commodities named above, applicant also stores at Stockton limited quantities of *bags*, farm and garden *seeds*, and *wool*. On bags and wool an increase of 5 cents per bale applicable to the first month only, is requested, as well as authority to establish loading and minimum delivery charges on said commodities and also on farm and garden seeds.

At the Brentwood hearing, applicant's attorney requested permission to amend the application so as to include under the proposed rates at Brentwood the storage of beans and other farm products, and also to establish a capacity loading charge for box cars as well as a loading and unloading charge for gondola cars, the same to be identical with charges proposed for similar service at Stockton. There was no objection, and the applicant was granted authority to make the amendment.

This application is based upon the undisputed contention that the cost of labor and supplies necessary in the operation of its warehouses at Stockton and Brentwood has greatly increased since applicant filed its present rate schedules with the Railroad Commission in 1912-14. According to the evidence, applicant now pays at Brentwood \$3.50 per day of nine hours for labor which previously cost but \$2.50, or less, per day of ten hours.

At Stockton labor now costing 40 cents per hour could be employed in 1912-14 for 30 cents per hour. In many instances, however, the quality of the labor is materially inferior to that formerly procured at the lower rates, so that as a consequence it is necessary to pay for more overtime, the rate for which has advanced to 50 cents per hour per man. It was likewise in evidence that material and supplies, such as lumber, iron, trucks, twine and bags have increased in cost from 75 per cent to 300 per cent.

Applicant's warehouse at Brentwood is a wood structure 316 by 40 feet with fourteen-foot walls, and has an estimated storage capacity of 2,000 tons of barley. A small outside office building with 10-ton scale adjoining, and platform 50 by 50 feet, together with the usual complement of trucks and handling equipment constitute the warehouse facili-

ties. There was no record of the original cost of the warehouse, as constructed some 30 years ago, but applicant estimates its present value at \$6,000.00. Two warehouses are operated by applicant at Stockton, No. 1 measuring 200 by 150 feet, being a brick structure having walls 13 inches thick, concrete floor and sheet iron roof; while No. 2 is constructed of corrugated galvanized iron, and has a double floor of 2-inch pine. These warehouses are located on West Weber avenue adjacent to Stockton Channel and have access to both rail and water transportation.

Statements filed by applicant covering the operation of these properties for the years 1913 to 1917, inclusive, shows the following results:

*At Brentwood.*

	1913	1914	1915	1916	1917	Total
Receipts .....	\$1,928 66	\$72 55	\$3,815 54	\$2,322 10	\$2,492 29	\$10,631 14
Expenses .....	2,053 63	646 31	3,099 62	2,553 65	2,629 75	10,976 96
Loss .....	\$124 97	\$567 76		\$231 55	\$137 56	\$1,061 74
Gain .....			\$715 92			\$715 92

Average net loss for 5 years, \$69.16.

Average tonnage handled for 5 years, 4,605 tons.

*At Stockton.*

	1913	1914	1915	1916	1917	Total
Receipts .....	\$1,955 81	\$1,868 81	\$9,379 13	\$5,322 27	\$6,942 62	\$31,478 61
Expenses .....	6,888 96	6,815 27	9,488 63	6,647 79	7,085 98	36,926 63
Loss .....	\$1,933 15	\$1,946 46	\$109 50	\$1,315 52	\$113 36	\$5,447 99

Average net loss for 5 years, \$1,089.60.

Average tonnage handled for 5 years, 5,526 tons.

The above figures do not include interest on investment nor depreciation of buildings and equipment.

In addition to the properties here under consideration, applicant operates a chain of warehouses along the line of Santa Fe Railway, in Merced County, and also a tidewater warehouse at Port Costa. At each of these places applicant has previously been authorized by the commission to establish for similar service rates identical with those now sought for Brentwood and Stockton. (See Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 848; also Decision No. 4901 of November 27, 1917, unbound.) The commission has also from time to time authorized increases and adjustments in the rates charged at various competitive warehouses located in Stockton, so that their effective schedules are now on practically the same basis as that which applicant seeks to establish.



In view of its operating results, as already shown, there appears to be no sufficient reason why applicant's Stockton rates should be on a lower basis than the rates of its competitors. In the main, the same conditions prevail at Brentwood, as are found at Stockton, and it is believed that the rates proposed by applicant for its warehouse service at that point will place no unjust burdens on the patrons of that warehouse.

Under the conditions surrounding the warehouse service at Brentwood and Stockton, as disclosed at the hearings in this application, involving as they do, extraordinary expenses for labor and material, without corresponding returns in revenue, the rates, rules and regulations proposed in the application as per schedules marked "A" and "B," respectively, as amended, are hereby found to be just and reasonable for the service.

#### ORDER.

California Wharf and Warehouse Company having applied to the Railroad Commission for authority to increase and adjust warehouse rates at its warehouses located at Brentwood and Stockton, public hearings having been held thereon, the matter having been submitted and being now ready for decision,

The Railroad Commission hereby finds as a fact that the rates, rules and regulations now in effect by applicant at the points named are unjust and unreasonable in so far as they differ from the rates, rules and regulations proposed by applicant as set forth in schedules marked "A" and "B," respectively, as amended, and made a part of the application.

Basing its order upon the foregoing finding of fact, and upon the other findings in the opinion preceding this order,

*It is hereby ordered* that California Wharf and Warehouse Company be and it is hereby authorized to publish and file with this commission, as required by law, a schedule of rates not in excess of the proposed rates shown in the application and specifically set forth in the preceding opinion.

Dated at San Francisco, California, this thirtieth day of April, 1918.

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#### DECISION No. 5360.

IN THE MATTER OF THE APPLICATION OF VACAVILLE WATER AND LIGHT COMPANY FOR PERMISSION TO ISSUE A NOTE TO VACAVILLE SAVINGS BANK FOR ONE THOUSAND FIVE HUNDRED DOLLARS AND EXECUTE A MORTGAGE ON SEVEN AND EIGHTY-SIX HUNDREDTHS ACRES OF LAND TO SECURE THE SAME.

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Application No. 3662.

*Decided April 30, 1918.*

W. Z. McBride, for Applicant.

BY THE COMMISSION.

**OPINION.**

Vacaville Water and Light Company asks authority to issue a one-year 7 per cent note to The Vacaville Savings Bank for the sum of \$1,500.00 and to execute a mortgage on 7.86 acres of land to secure the payment of the note.

A hearing on the above-entitled application was held before Examiner Encell at Vacaville on April 19, 1918.

Applicant is engaged in operating public utility water and electric plants at Vacaville and vicinity. In connection with its operations it has found it necessary to borrow \$1,500.00 from The Vacaville Savings Bank to acquire 7.86 acres of land. The testimony shows that applicant's wells are located on this tract of land. Because of being obliged to use its surplus earnings to reconstruct electric lines to conform with the state laws, applicant has been unable to repay the loan from The Vacaville Savings Bank.

While applicant asks authority to execute a mortgage to secure the payment of the note, it has not submitted to the commission a copy of its proposed mortgage. Obviously, the commission can not make a final order in this proceeding until applicant has furnished the commission with a copy of its proposed mortgage.

**ORDER.**

Vacaville Water and Light Company having applied to the Railroad Commission for authority to issue a \$1,500.00 note and to execute a mortgage, a public hearing having been held, and the commission being of the opinion that the money to be procured by said issue of note is reasonably required for the purpose specified in the order, which purpose is not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Vacaville Water and Light Company be and it is hereby granted authority to issue to The Vacaville Savings Bank a one-year 7 per cent note for the sum of \$1,500.00 and to execute a mortgage to secure the payment of said note, subject to the following conditions:

1. The authority herein granted shall not become effective until applicant has filed with the Railroad Commission a copy of its proposed mortgage and the commission has approved the same by a supplemental order herein.

2. The proceeds obtained from the issue of the note herein authorized shall be used to pay a note of \$1,500.00 due The Vacaville Savings Bank.

3. Within ten days after the date of the issue of the note herein authorized, applicant shall report in writing the fact and date of the note, together with the amount, term and payee of said note.

4. The authority herein granted shall not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

5. The authority herein granted shall apply only to such note as may be issued and to such mortgage as may be executed on or before August 1, 1918.

Dated at San Francisco, California, this thirtieth day of April, 1918.

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DECISION No. 5362.

IN THE MATTER OF THE APPLICATION OF BYRON-BETHANY IRRIGATION COMPANY FOR AN ORDER GRANTING TO IT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY APPROVING AND CONFIRMING FORMER ISSUES OF STOCK, AND AUTHORIZING THE SALE AND ISSUANCE OF ADDITIONAL STOCK OF SAID CORPORATION.

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Application No. 3535.

*Decided April 30, 1918.*

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*Cary Howard*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Byron-Bethany Irrigation Company, a corporation, applies for authority to issue its capital stock, partly in exchange for stock heretofore issued without authority and partly to procure additional capital to be used in constructing and paying for its irrigation plants and system.

A public hearing in the matter was held by Examiner Westover at San Francisco.

Applicant was organized in 1914, as a mutual water company, with a capital stock of \$100,000.00, divided into 10,000 shares of the par value of \$10.00 each, for the purpose of providing for the irrigation of lands in Alameda, Contra Costa and San Joaquin counties; and was subsequently reorganized as a public utility corporation by amending its articles of incorporation about February 16, 1917.

Preliminary declaration that public convenience and necessity require the construction and operation of its system is contained in the commission's Decision No. 4366 of June 1, 1917.

Applicant's system is still under construction, about 13 miles of main canal and about 12 miles of laterals being already completed.

Applicant heretofore sold 6,288 shares of its capital stock before its articles of incorporation were amended. Of these shares 4,905 had been issued prior to the amendment of the articles, and \$49,050.00 paid therefor. Upon the remaining 1,383 shares sold, partial payments have been made but none of said shares have been issued. To avoid any question of the validity of its stock heretofore issued, applicant now asks authority as a public utility to issue new certificates in exchange for the certificates issued prior to the said amendment of its articles of incorporation.

Applicant also wishes authority to issue the remaining 5,095 shares of its capital stock, for which no certificates have heretofore been issued. Some of the more recent sales of stock have been at the price of \$12.50 per share, and applicant believes that it can sell its stock at that price.

Applicant reports the total cost of its plants and system to March 30, 1918, at \$138,142.76, and submits its engineer's estimate of the cost of completion amounting to \$48,640.50, or an estimated total of \$186,783.26.

Of the above amounts, about \$47,000.00 has been borrowed on short term notes, and \$63,962.60 has been furnished by stockholders in cash and rights of way.

#### ORDER.

Byron-Bethany Irrigation Company having applied to the Railroad Commission for authority to issue certificates of its capital stock in exchange for certificates of stock heretofore issued by it, and also for authority to issue stock and use the proceeds in the construction of its irrigation plant and system, and a public hearing having been held thereon, and the commission finding that the money is reasonably required for the purposes specified in this order, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Byron-Bethany Irrigation Company be and it is hereby authorized to issue certificates for 4,905 shares of its capital stock upon the surrender and cancellation of certificates for 4,905 shares of its capital stock heretofore issued without authority of the commission; and said applicant is further authorized to issue the remaining 5,095 shares of its capital stock at not less than its par value of \$10.00 per share and use the proceeds thereof for the purpose of constructing its irrigation plant and system.

The authority herein contained is upon the following conditions:

(1) Said 5,095 shares of stock shall be issued at a price to net applicant not less than \$10.00 per share.

(2) The authority to issue stock shall apply only to such stock as may be issued within one year from date hereof.

(3) On the twenty-fifth day of each month applicant shall make verified report in writing to the Railroad Commission of the stock issued, the application of the proceeds thereof, and furnish such information as is required by General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) Nothing herein contained shall be construed as a finding by this commission of the value of applicant's plant or system or properties.

Dated at San Francisco, California, this thirtieth day of April, 1918.

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DECISION No. 5363.

ED. CREIGHTON ET AL.

vs.

HUGH A. BOYLE AND IDA M. BOYLE, HIS WIFE.

Case No. 1199.

IN THE MATTER OF THE APPLICATION OF HUGH A. BOYLE FOR AN ORDER AUTHORIZING HIM TO DISCONTINUE SERVICE TO CERTAIN WATER USERS AT TIBURON, CALIFORNIA.

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Application No. 3604.

*Decided April 30, 1918.*

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WATER SERVICE.—Owner of utility residing away from plant ordered to keep representative on ground to care for utility service.

*Ed. Creighton*, for Complainants.

*Harry F. Sullivan*, for Applicant.

GORDON, *Commissioner*.

#### OPINION.

Complaint in the above-entitled case was filed February 2, 1918, and sets forth in effect that complainants have greatly inconvenienced and damaged by entire lack of water at intervals during several weeks prior to the filing of the complaint; that at best the water service is inadequate and unsatisfactory; that defendants visit the district supplied by them only to collect water rates, and that in general the system receives little or no attention. Complainants ask the Railroad Commission to order defendants to provide an adequate and continuous water supply and to provide for proper operation of the system.

The application to discontinue service was filed on March 16, 1918. Authority is requested to discontinue water service to eleven of applicant's consumers, all situated on Marwest street, between the bridge and the railroad station at Tiburon.

Applicant alleges that due to lack of rainfall the springs which supply the system will not be sufficient to provide water for all his consumers; that he is not financially able to develop or construct additional sources of supply, and that the eleven consumers whose service it is desired to discontinue are in position to obtain water at little or no expense from the Belvedere water company. In addition to discontinuing service to such consumers, applicant desires authority to put in effect a rule prohibiting any of his customers using water for the cultivation of flowers, plants or trees, and a rule requiring that consumers whose services are metered shall be held responsible for all damage to the meter.

For convenience the above complaint and application were consolidated and public hearing was held April 5, 1918, at which considerable testimony relative to the present condition of the system was offered by complainants. Both matters were submitted for final decision, pending investigation and report by the commission's engineer, it being stipulated that said report would be received in evidence.

After review of the testimony and evidence in these matters I believe the following is a correct statement of the facts relative to this situation.

This system derives its supply from surface springs. Its service area covers two distinct districts. Boyle reports that at present water rates are collected from some forty-two consumers. Monthly receipts are stated to be \$70.00. In 1913 the gross revenue was reported as \$90.00 per month. Beyond the expense of collecting rates there appears to be little expended for operation. A description of the system is found in Decision No. 328, Application No. 212 and Case No. 306, Vol. 1, Opinions and Orders of the Railroad Commission of the State of California. Only twelve of the services are metered at present. A considerable number of these meters are out of order and fail to register. The commission's engineer reports a total of fifty-five houses under the system which when fully occupied total seventy-four separate customers. At present vacancies account for about eighteen consumers. None of these consumers are engaged in commercial gardening or have unusual facilities for using water. The premises served consist of substantial homes with lawns, flowers and shrubs, and an occasional small garden plot. A number of the houses are rented as two or three family flats.

While there has been some decrease in the flow from the springs this year due to light rainfall, the evidence indicates a present yield sufficient for the absolutely necessary requirements providing all waste is checked and the system properly operated. Boyle testified that he visits the district about every month for a day, but that during his

absence no one was employed to operate the plant. Under Decision No. 328, in Application No. 212, decided November 12, 1912, Boyle was permitted to meter all his consumers and charge meter rates for water service. Although on a number of occasions subsequent to 1912 Boyle has been advised to meter the system and arrange for continuous supervision of the plant, nothing has been done beyond the installation of a few meters noted above. Notwithstanding these unsatisfactory water conditions, some twelve or more new houses have been constructed under the system during the last few years, most of them on land purchased from Boyle. I am convinced that satisfactory water service will never be rendered by this system until it is completely metered and a competent person placed in continuous charge thereof, and shall recommend that such be done.

Relative to the application to discontinue service to some eleven consumers on Marwest street, no showing was made by applicant that such consumers could easily and at little or no expense obtain water service from the Belvedere land company or in fact from any other source except that from which they are now supplied. The facts appear to be as follows:

On Marwest street and adjacent to Boyle's consumers on this street are situated some eighteen consumers who are supplied wholesale by the Belvedere land company. These consumers are a voluntary association made up of individuals who have contributed to the cost of laying their supply and distribution pipes and who each bear a proportion of the cost of the water service. The supply is delivered through meter by the Belvedere land company at the outer edge of its service area and from this point conveyed through a 1½ inch supply main to the consumers. This situation is fully explained in Decision No. 774, Case No. 373, decided July 2, 1913, *Hugh A. Boyle vs. Belvedere Land and Water Company et al.*; wherein it was held that the sale of water by the Belvedere Land and Water Company to the above mentioned voluntary consumers did not constitute an invasion of the territory supplied by Boyle. It is to be noted that most of the parties of this mutual association were former patrons of the Boyle system. The commission's engineer reports that the pipe line supplying this association is capable of giving a fair degree of service to twice the number of consumers now supplied therefrom provided an equalizing storage tank is installed on the line. This commission has no power, however, to order that such mutual association take on the eleven consumers under consideration. It is also reasonable to presume that any new member of this association would be required to pay a portion of the cost of the existing plant before he could obtain service.

In reference to the general water situation in Tiburon and vicinity it was testified that the Marin Municipal Water District intended at some future date to enter this territory through the purchase of the Belvedere Land and Water Company's system. When this is accomplished it will be a most satisfactory solution of present conditions, but there appears to be no certainty when the event will be consummated, and the present service conditions under this particular system do not warrant any temporizing. The rules which Boyle desires to place in effect will not be applicable to the character of service which is contemplated herein.

I recommend the following order:

**ORDER.**

Hugh A. Boyle having made application for authority to discontinue water service to some certain consumers supplied through the water system owned by him and to put into effect certain rules and regulations relative to the operation of said system, and formal complaint having been filed with this commission by a number of consumers of the said system, alleging that water service conditions were extremely unsatisfactory, and petitioning this commission to order said Hugh A. Boyle to operate said water system in such a manner as to provide a continuous and dependable supply of water, and public hearing having been held and the commission being fully apprised in the premises,

*It is hereby ordered* that said application to discontinue service to certain consumers of said water system be and the same is hereby denied; and

*It is further ordered* that said Hugh A. Boyle install meters on each and every one of the services of his water consumers and take immediate steps to provide means of operating the water system owned by him so that an adequate, dependable and continuous supply of water can be furnished to all of his consumers.

*It is further ordered* that Hugh A. Boyle so provide that a responsible representative will reside in or near by the district served. His duty will be to inspect the plant at brief periods and to perform all the essential functions in operation of the same. Patrons are to be notified that any complaint should be brought to the attention of this representative who must be given authority to act for Boyle.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirtieth day of April, 1918.



## DECISION No. 5369.

## IN THE MATTER OF THE APPLICATION OF I. F. LOWN FOR PERMISSION TO DISCONTINUE TELEPHONE SERVICE.

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Application No. 3482.*Decided April 30, 1918.*

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BY THE COMMISSION.

**OPINION.**

I. F. Lown, petitioner in the above-entitled proceeding, owns a telephone line extending from the city limits of the city of Monterey to Cassanova avenue, Del Monte Grove, Monterey County, a total distance of about two miles.

This line was constructed during the year 1915 by petitioner for the purpose of securing connection with the telephone exchange of The Pacific Telephone and Telegraph Company at Monterey for his private use. Petitioner alleges that during July, 1917, at their solicitation, and as an accommodation, he permitted four other parties to be connected with his line upon the condition that they each would pay their pro rata of the cost of installation and \$1.50 per month to pay the charges of The Pacific Telephone and Telegraph Company for switching service and for upkeep.

Petitioner further alleges that this arrangement involving the collection of charges for service from these four parties was made in ignorance of the necessity of seeking the authority of the Railroad Commission therefor. He now seeks authority to withdraw service as far as these four parties are concerned, and has obtained the written consent of three of them to its withdrawal. The fourth party has not consented but in this case service was discontinued during or about the month of December, 1917, for his alleged failure to pay his assessed pro rata of the cost of installation.

We are of the opinion that this application should be granted and that this is a matter not requiring a public hearing.

**ORDER.**

Application having been filed with the Railroad Commission by I. F. Lown for permission to discontinue telephone service, as set forth in the preceding opinion, and it appearing to the Railroad Commission that this is not a case in which a public hearing is necessary,

*It is hereby ordered* by the Railroad Commission of the state of California that the application herein be and it is hereby granted.

Dated at San Francisco, California, this thirtieth day of April, 1918.

## DECISION No. 5370.

J. W. JAMESON

*vs.*PRODUCERS TRANSPORTATION COMPANY, STANDARD OIL COMPANY  
AND GENERAL PIPE LINE COMPANY OF CALIFORNIA.

Case No. 1188.

*Decided April 30, 1918.*

**OIL PIPE LINES.**—After request from National Fuel Administration which has assumed during the war the operation of oil pipe lines in California, the proceeding before the Railroad Commission to establish rates, rules and regulations for the transportation of oil in pipe lines, is deferred until the termination of the war or the further order of the commission.

*Alfred L. Black*, for Complainant.*L. W. Andrews*, for Producers Transportation Company.*Oscar Sutro*, for Standard Oil Company.*A. L. Weil*, for General Pipe Line Company of California.*D. M. Folsom* and *A. L. Chickering*, for Oil Division of National Fuel Administration.*THELEN*, Commissioner.**OPINION.**

The complaint herein asks that the Railroad Commission establish just and reasonable rates, rules and regulations for the gathering, transportation, storage and delivery of crude oil and petroleum by defendant companies, each of whom owns and operates one or more oil pipe lines between points in California. The proceeding is brought in behalf of a number of producers and independent refiners and purchasers of crude oil and oil products in California.

For a statement of the oil pipe line situation in California at the time the decision was rendered, reference is hereby made to Decision No. 2042 in Case No. 450, decided on December 31, 1914, being an investigation on the Railroad Commission's own motion into the matter of the compliance by oil pipe lines with the provisions of chapter 327, laws of 1913, declaring certain corporations, associations and individuals to be common carriers and public utilities subject to the provisions of the Public Utilities Act. (Vol. 5. Opinions and Orders of Railroad Commission of California, p. 990.) For a more recent statement of the situation reference is made to Chapter VI of the Report of the Committee on Petroleum of the California State Council of Defense, dated July 7, 1917, and published by the California State Printing Office.

Producers Transportation Company, one of the defendants herein, Associated Oil Company and Associated Pipe Line Company secured

from the Supreme Court of California writs of review to review said Decision No. 2042 of the Railroad Commission. By decision rendered on November 17, 1917, in *Producers Transportation Company vs. Railroad Commission*, 54 Cal. Dec. 583, the Supreme Court of California held that said company is a common carrier subject to the jurisdiction of the Railroad Commission and is required to file with the commission its rates, rules and regulations for the transportation of crude oil and the products thereof. Thereafter, on February 14, 1918, Producers' Transportation Company sued out a writ of error to the Supreme Court of the United States to review said decision.

By decision of November 20, 1917, in the cases of *Associated Oil Company vs. Railroad Commission* and *Associated Pipe Line Company vs. Railroad Commission*, 54 Cal. Dec. 588, the Supreme Court of California held that Associated Oil Company and Associated Pipe Line Company are not common carriers of oil and are not subject to the jurisdiction of the Railroad Commission.

Standard Oil Company and General Pipe Line Company of California did not seek a review of the Railroad Commission's said Decision No. 2042, in which decision said companies were declared to be, with reference to San Joaquin Valley pipe lines, common carriers subject to the jurisdiction of the Railroad Commission. On December 28, 1916, Standard Oil Company filed with this commission rates, rules and regulations for the transportation of crude oil by means of its various San Joaquin Valley pipe lines. The company also filed a protest against this commission's jurisdiction.

On April 9, 1915, General Pipe Line Company of California filed rates, rules and regulations for the transportation of crude petroleum by its pipe line between San Joaquin Valley points and San Pedro.

On February 28, 1918, prior to the filing of answers herein, M. L. Requa, Director of Oil of the National Fuel Administration, sent a telegram to the Railroad Commission, as follows:

WASHINGTON, D. C., February 28, 1918.

*California State Railroad Commission,  
San Francisco, California.*

Am advised that case has been filed with commission asking for establishment of rates and regulations for shipments of oil in pipe lines. In view of plan of oil division of fuel administration to operate all pipe lines in California as a unit during period of war for the common good, I respectfully request that this case be postponed if possible pending agreement with pipe line owners as to operations during war.

REQUA,

Director Oil Division Fuel Administration.

The Railroad Commission thereupon notified all the parties to appear before it in the office of the commission in San Francisco on April 18, 1918, at which time and place argument and, if necessary, evidence might be presented on the question whether the Railroad Commission should now go forward with this proceeding.

The hearing was held at the time and place specified and this matter is now ready for decision on the question whether the commission shall now go forward herein.

Mr. D. M. Folsom, Pacific coast representative of the oil division of the National Fuel Administration, referred to the act of August 10, 1917, providing for the national security and defense by encouraging the production, conserving the supply and controlling the distribution of food products and fuel, and drew attention to the fact that under this act the National Fuel Administration is charged with the responsibility of assuring an adequate supply, distributing equitably and facilitating the movement of all fuel, including fuel oil. Under this act, the National Fuel Administration has provided that all companies engaged in the manufacture or distribution of fuel oil at a capacity in excess of 100,000 barrels per annum must secure licenses and comply with the rules and regulations prescribed by the President or the National Fuel Administration.

Such licenses have been secured by Union Oil Company, owning practically all the capital stock of Producers Transportation Company; by Standard Oil Company; and by General Petroleum Corporation, owning practically all the capital stock of General Pipe Line Company of California. Mr. Folsom took the position that the federal regulation of the oil business can not be effective unless it includes the oil pipe lines.

Referring particularly to the situation in California, Mr. Folsom drew attention to the fact that the oil pipe lines can not be operated during the war as heretofore. They must be operated during the war, said he, in so far as possible, as a unit, irrespective of the personal advantage of their respective owners or intending customers, with a view primarily to the most efficient operation to serve the nation's war needs. He drew attention to the fact that the requisitioning of oil tankers on the Pacific coast by the federal government has compelled changes in the operations of the existing pipe lines; that in order to equalize the present increasing production of crude oil in the Los Angeles-Orange County fields, with the diminishing production in the Midway field, the General Pipe line Company's pipe line has discontinued operations between Lebec and Vernon; that it may become necessary in order to conserve oil tankers to cease operating

the Producers Transportation Company's pipe line, diverting the oil to other pipe lines; and that other changes from the normal operation of the pipe lines may reasonably be expected.

Attention was also directed to the fact that the National Fuel Administration has issued rules and regulations providing for priorities in the distribution of fuel oil as between designated classes of consumers. These rules and regulations thus far apply only east of the Rocky Mountains, but Mr. Folsom stated that he anticipated that similar priorities would shortly be established for the territory west of the Rocky Mountains.

Mr. Folsom was of the opinion that the establishment at this time of rates, rules and regulations for oil pipe lines by this commission would not only be an idle act but also would prove embarrassing to the federal government in its control of the oil business during the war. He accordingly joined in Mr. Requa's request that further proceedings herein be deferred until the termination of the war.

Mr. L. W. Andrews, representing Producers Transportation Company, urged that in view of the action taken by the Supreme Court of California on the appeal of Producers Transportation Company to the Supreme Court of the United States, staying further proceedings pending the decision of the latter court, this commission is precluded from taking any further action at this time affecting Producers Transportation Company.

Mr. Oscar Sutro, representing Standard Oil Company, and Mr. A. L. Weil, representing General Pipe Line Company of California, concurred in the view that further action in these proceedings should be deferred until the termination of the war. Mr. Sutro also indicated that at the proper time he will urge that this commission does not have jurisdiction over the oil pipe lines of Standard Oil Company.

Mr. A. L. Black, representing the complainant herein, stated his position as follows:

"If this is a request, as I say, a well considered request of the government, I care not whether the government has a legal right or a constitutional right to do what is being requested by Mr. Folsom in asking this matter to lay over, I care not what the men that I represent lose by submitting to the conditions as they now exist. I say if it is a request from the government, well considered and a request for which any reason is given that is practical, then both myself and every company that I represent will withdraw any objection."

Unless such showing was made, however, Mr. Black said that he would insist on proceeding and on having this commission establish rates, rules and regulations as requested in the complaint herein.

Mr. Black stated that his clients have made no request of Standard Oil Company or General Pipe Line Corporation to transport their oil. They did make such a request of Producers Transportation Company, he said, but no actual tender of oil for transportation was made.

This commission has proceeded as promptly as possible with the performance of the duties specified by chapter 327, laws of 1913, referring to oil pipe lines. The delays which have ensued have been the result of litigation for which this commission is not responsible. Bearing in mind the delays which have already occurred, we would have every desire to press these proceedings promptly to a final determination.

However, the requirements of the war in which this nation is now engaged have so changed the pipe line situation in this state as to render the establishment of rates, rules and regulations by this commission at this time in part or in whole abortive, in addition to being embarrassing to the federal government. The situation is clearly illustrated by the General Pipe Line Company's condition. That company has heretofore transported oil from the San Joaquin Valley over the Tehachapi to tidewater in Los Angeles County. Assuming that this commission would now establish rates, rules and regulations for that service, we would immediately be confronted with the impossibility of enforcing our order, for the reason that the circumstances of the war have caused the suspension of operations of this line throughout a considerable portion of its extent. If it should hereafter become necessary, as has been intimated, to reverse the operation of this line and to transport oil through it north into the San Joaquin Valley instead of south out of the valley, as heretofore, the anomaly of the situation would be even more apparent.

Hardly less striking would be the situation if, as suggested by Mr. Folsom, it should become necessary, by reason of the oil tanker situation, to discontinue entirely the operations of the Producers Transportation Company's line during the war.

Furthermore, the establishment by the federal government of priorities in the distribution of fuel oil would be inconsistent with the normal operation of rates, rules and regulations to be established by this commission.

Finally, and to my mind most important, we have here a reasoned request from an important department of the federal government, charged with responsibilities of serious moment in the prosecution of the war, in a matter intimately connected with the war and growing out of the war as a war measure. I feel very strongly that it is the patriotic duty and privilege of this commission to grant that request

and to proceed no further herein during the war or until the further order of this commission, unless compelled so to do by order of a court of competent jurisdiction.

From the attitude of the complainant at the hearing herein, and in view of the fact that the reason for the request of the federal government have now been fully presented, I am satisfied that complainant will take the same view.

The oil pipe lines of California are to be operated by the federal government during the war irrespective of the interests of any oil pipe line company and in part to transport the oil of corporations and persons other than corporation owning or controlling any particular line. They are to be operated as a unified system for the common good. Under these circumstances, it might well be that the federal government, if it considers such procedure to be in the public interest, might itself make provision for the transportation by pipe lines of the oil of the independent producers under reasonable and practical rules and regulations. Under the order herein, however, this is a matter to be decided by the federal government on the facts as they appear to it.

I submit the following form of order:

**ORDER.**

A public hearing having been held herein on the question whether the Railroad Commission shall now go forward with the above-entitled proceeding, good cause appearing, and the order herein being based on the reasons set forth in the opinion which precedes this order,

*It is hereby ordered* that further proceedings in the above-entitled case be deferred until the termination of the war in which the United States is now engaged or until the further order of this commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this thirtieth day of April, 1918.

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DECISION No. 5375.

IN THE MATTER OF THE CONSTRUCTION AND OPERATION OF  
ELECTRIC UTILITIES DURING THE EMERGENCY CREATED BY  
THE WAR.

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Case No. 1176.

*Decided May 2, 1918.*

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ELECTRIC UTILITIES—SERVICE—RATES—CONSOLIDATION OF PLANTS.—Construction  
and operation of electric utilities investigated and reviewed to determine needs

of war emergency. Recommendations made for consolidation of service by transmission or delivery of electric energy between specified utilities at suggested rates.

*C. P. Cutten*, for Pacific Gas and Electric Company.

*W. I. Brobeck*, for California-Oregon Power Company.

*Allan P. Matthew*, for Northern California Power Company, Consolidated.

DEVLIN, *Commissioner*.

#### OPINION.

This proceeding was instituted by the Railroad Commission of the state of California on its own motion, having for its object an investigation into the construction and operation of electric utilities so as to enable it to determine the special needs of these utilities during the war emergency and in order to enable the commission to render prompt assistance to the government, the utilities and the public, to the end that there would be no shortage in service on the part of the utilities or interruption of service to industries.

The investigation so far made has been directed principally to the matter of the conservation of fuel oil and the further development of hydroelectric power on the part of electric utilities with a view to preventing any shortage of power in California during the war emergency.

Investigations were carried on by the electric division of the commission and by advisory committees of the public utilities on this general matter and hearings were held relative to the interconnection of electric utilities of the state and the needs for further development.

Under date of March 18 the commission issued a recommendatory order with reference to the southern division of the state, in which it recommended that certain interconnections be made and that the companies take steps to meet the growing requirements for power.

In this opinion and order consideration will be given to the question of the transmission and sale of power from California-Oregon Power Company and Northern California Power Company to Pacific Gas and Electric Company for reasons which will be set forth in the opinion herein.

The five larger companies serving in what may be considered as central and northern California are: Pacific Gas and Electric Company, Great Western Power Company, Sierra and San Francisco Power Company, Western States Gas and Electric Company and Northern California Power Company. These five companies generate practically all of the hydroelectric power at present produced and sold in this part of the state.



The investigation made and evidence presented in this case shows that there is a shortage of hydroelectric power in the central part of the state; that none of the electric utilities have in progress of construction hydroelectric plants to meet the demand for power which is increasing at an annual rate of approximately 25,000 kilowatts of demand and 150,000,000 kilowatt hours per year; that during the coming season less hydroelectric power will be produced than normally due to the shortage in precipitation, and that all practicable means should be taken to conserve fuel oil and meet the necessary demands for power and thus not hamper the industries during the war.

Considering the continually decreasing oil storage in California and the threatened shortage which may occur, it behooves the electric utilities to do all that they reasonably can to keep their consumption down to a minimum, and assistance should be given to them in so far as practicable to increase the utilization of existing hydroelectric facilities and the further development of plants as soon as possible.

The Pacific Gas and Electric Company is the largest distributing company of the five serving the central part of California. It purchases, in addition to the output of its own hydroelectric and steam plants, power from the Great Western Power Company, Northern California Power Company and Snow Mountain Power and Electric Company. During 1917 there was transmitted over its lines for distribution and resale over 60 per cent of all of the energy produced by the five companies and it appears that the greatest need for additional power will be upon its system.

Investigations in connection with this case show that California-Oregon Power Company has completed a hydroelectric plant known as Copco, near the California-Oregon line, with a capacity of 10,000 kilowatts, which is not at present needed for the local requirements of that company and further, that the Northern California Power Company has a surplus capacity of approximately 4,000 kilowatts during the seven months of the year from October to April, inclusive. Provided the companies can finance the required transmission facilities to deliver this power to Pacific Gas and Electric Company, this additional power, representing approximately 60,000,000 kilowatt hours a year, delivered to Pacific Gas and Electric Company could be made useful in meeting the growing requirements for power in the bay districts and reduce the oil requirements approximately 240,000 barrels per year.

Investigations were carried on by the commission's electric division together with advisory committees of the companies in connection with the first hearings in this matter with a view to determining a method by which this power could be made available in the central portion

of California. In its original report the subcommittee made certain recommendations as to a plan for transmitting this power to Pacific Gas and Electric Company. Difficulties arose, however, in connection with the plan suggested owing to the fact that the Northern California Power Company was not able to finance that portion of the cost of the extension which would be allotted to it and thereafter further investigations were carried on by the commission's engineers and the companies with a view to determining some alternative plan by which this power could be made available.

Later a plan was proposed whereby California-Oregon Power Company would assist Northern California Power Company in financing a portion of the cost and by which there could be delivered at a point near Colusa to Pacific Gas and Electric Company a minimum of 8,000 kilowatts throughout the year and 4,000 additional kilowatts during at least seven months. This plan was discussed in conference first, between the engineers of the utilities and the commission, and later, conferences were held with the commission in view to making arrangements for this work. Difficulties arose, however, especially as regards the rate to be paid for the power, as the various parties were not able to agree between themselves and it was suggested that that be left to the commission. Recommendations were made by Acting Gas and Electrical Engineer L. S. Ready as to a rate.

In order that the matter might be formally settled additional hearings were held upon the entire matter and evidence introduced as to the construction of the line and the rates to be paid for such supply.

California-Oregon Power Company has a transmission line operating at 30,000 volts from Copco to Castella, the latter point being approximately 35 miles from the lines of Northern California Power Company at Kennet.

Northern California Power Company has two transmission lines running south from its hydroelectric plants to Chico and thence as far south as Maxwell.

Pacific Gas and Electric Company has a 60,000-volt line from Marysville to Colusa and its 100,000-volt line approximately 30 miles farther south.

The proposed plan to transmit this developed power contemplates the utilization of the existing transmission line with certain reinforcements and the construction of 60,000-volt pole lines to interconnect the existing lines. It is proposed that:

- (1) California-Oregon Power Company reinforce and reconstruct its present transmission line from Copco to Castella and construct a 70,000-volt line from Castella to Kennet of sufficient capacity to transmit to Northern California Power Company at Kennet 8,500 kilowatts.

Estimated cost ----- \$230,000 00

- (2) California-Oregon Power Company finance Northern California Power Company to the extent required to reinforce that company's lines from Coleman to near Hamilton by the addition of 1/0 copper conductor to the west line so that there can be delivered throughout the year to Pacific Gas and Electric Company at Colusa 8,000 kilowatts.
- |                      |            |
|----------------------|------------|
| Estimated cost ..... | 110,000 00 |
|----------------------|------------|
- (3) Pacific Gas and Electric Company construct a 60,000-volt transmission line of sufficient capacity from Colusa Corners, near Colusa, to the Drum-Cordelia 100,000-volt line and install a substation of 12,000 kilowatts capacity from 60,000 to 100,000 volts, to deliver the power into that line.
- |                      |            |
|----------------------|------------|
| Estimated cost ..... | 200,000 00 |
|----------------------|------------|
- |                            |              |
|----------------------------|--------------|
| Total estimated cost ..... | \$640,000 00 |
|----------------------------|--------------|

Pacific Gas and Electric Company will be required to reroute the power from certain of its existing plants over its Wise-Stockton Mission San Jose line to the southern district. This line is under construction at the present time and will be completed by the time power can be delivered at Colusa.

At the conference held in connection with this matter general agreements were reached as to the amount of power to be delivered and purchased but no agreement was reached as to the rate to be paid. The general understanding reached as a result of these conferences was:

- (1) California-Oregon Power Company to guarantee to deliver at Kennet to Northern California Power Company, and the latter company to agree to take for transmission south, 8,500 kilowatts at 70 per cent load factor.
- (2) California-Oregon Power Company and Northern California Power Company to agree to deliver to Pacific Gas and Electric Company at Colusa Corners, 8,000 kilowatts at 70 per cent load factor throughout the year.
- (3) Northern California Power Company to agree to deliver to Pacific Gas and Electric Company during the months of October to April, inclusive, 4,000 kilowatts at 50 per cent seasonal load factor.
- (4) Pacific Gas and Electric Company to agree to purchase and take from the northern companies a minimum of 8,000 kilowatts at 70 per cent load factor for 12 months and 4,000 kilowatts at 50 per cent seasonal load factor for the seven months.
- (5) The agreements were to be incorporated in a contract to run for ten years, with the right to apply for change of rate in five years. It was further understood that Northern California Power Company's delivery of power to Pacific Gas and Electric Company at Chico, under contract relations, should in no way be affected by this contract.

The result of the above agreement, if carried out, will be the purchase by Pacific Gas and Electric Company of a minimum of 59,000,000 kilowatt hours per year. This will represent an oil conservation of approximately 240,000 barrels per year.

Based upon estimated costs to the northern companies of transmitting the power, including interest upon the investment, Mr. L. S. Ready, acting gas and electrical engineer of the commission, submitted to the

various parties a suggestion as to the rate to be charged for the power. The rate proposed is, in general, as follows:

- (1) California-Oregon Power Company—Delivery to Northern California Power Company at Kennet:  
 8,500 kilowatts at 70 per cent weekly load factor \$24.00 per kilowatt year  
 Excess energy above 70 per cent load factor----- .002 per kilowatt hour
- (2) California-Oregon Power Company and Northern California Power Company—Delivery to Pacific Gas and Electric Company at Colusa:  
 8,000 kilowatts at 70 per cent weekly load factor--\$30.00 per kilowatt year  
 Energy in excess of 70 per cent load factor----- .0025 per kilowatt hour  
 Energy in excess of 8,000 kilowatts—7 months  
 delivery of 4,000 kilowatts at 50 per cent sea-  
 sonal load factor----- .004 per kilowatt hour

The above rates would result in a gross revenue to California-Oregon Power Company at Kennet of a minimum of \$204,000.00 annually, and to Northern California Power Company a revenue to cover cost of transmission of power received from California-Oregon Power Company and return for power delivered from its own plants of \$76,000.00.

Pacific Gas and Electric Company considered the price above referred to was higher than their own costs and submitted evidence at the hearings relative to the cost and value of service to them.

The rate suggested by Mr. Ready as applicable to delivery at Colusa, represents an average rate per kilowatt hour, at 70 per cent load factor, of 4.9 mills, and at 100 per cent load factor at 4.15 mills per kilowatt hour. This compares favorably with the rate paid by Pacific Gas and Electric Company to the Northern California Power Company for the second block of power delivered at Chico, some 40 miles farther north, which rate is 4.13 mills per kilowatt hour at 100 per cent load factor.

Based upon a further analysis of exhibits and estimates presented, it would appear that California-Oregon Power Company will probably be required to deliver approximately 8,600 kilowatts at Kennet to supply 8,000 kilowatts to Colusa, and from a recomputation of the various costs chargeable to this service it would appear that a rate of \$23.00 per kilowatt per year at 70 per cent load factor for the 8,500 kilowatts would be a reasonable rate.

The Northern California Power Company's system used in delivering the power is primarily transmission lines, and it appears that the capacity of its existing lines for service to its own consumers will be limited materially by the transfer of the 8,000 kilowatts continuously to Pacific Gas and Electric Company, although such lines are reinforced. The estimated cost determined by Mr. Ready for the power delivered at Colusa was approximately \$31.15 per kilowatt year. Based upon the cost to the northern company I do not see any reason for changing the rate from \$30.00 suggested by Mr. Ready.

Pacific Gas and Electric Company submitted comparative costs of development of power from its own plants, based upon the findings in Decision No. 2947, Opinions and Orders of the Railroad Commission, State of California, Vol. 8, page 566.

In this computation Pacific Gas and Electric Company computed the cost upon the basis of the sum of its separate hydroelectric plant peaks, and further included in the cost taxes at 5.6 per cent. Applicant does not pay the tax on production cost but on the revenue received from sale of this energy, which tax is applicable both to the purchased and produced power and therefore should not have been included. I believe the method of determining the comparative peak supply from the plants is not the proper one. The power to be purchased from the northern companies is on a basis of 8,000 kilowatts at 70 per cent load factor throughout the year. The Pacific Gas and Electric Company's plants during the year 1915, which was the year used in comparison, supplied a simultaneous peak during the low water period of approximately 65,000 kilowatts, as compared with the sum of the individual peaks of 83,575 kilowatts used by the company. It would appear more reasonable to use in comparison the 65,000 kilowatt basis as this supply will not reduce during the low water period.

Pacific Gas and Electric Company included in its comparative cost \$98,000 state taxes. This apparently should not have been included in this comparison. On the revised basis, the cost of the power from the company's system, on the basis of 70 per cent guaranteed load factor, would be approximately \$27.00 per kilowatt year as compared with the company's computation of \$24.27. It is well to note that in Case No. 550, the decision in which was used the computations above referred to, Pacific Gas and Electric Company contended for a cost of hydroelectric power which, on the above basis, would, with the necessary additions, represent a cost of from \$29.00 to \$30.00 per year per kilowatt of simultaneous peak. Under present conditions the cost of the construction and operation of plants exceed previous costs materially, and though it does not follow that rates for existing plants should necessarily be based upon existing costs, still I believe that the proposed rate is favorably comparable.

Considerable difference of opinion exists between the Northern California Power Company and the Pacific Gas and Electric Company as regards the rate for the surplus power of 4,000 kilowatts for seven months in the year. The Northern California Power Company urge that the rate of 4 mills per kilowatt hour, suggested by Mr. Ready, was too low, and compared this rate with the rate received for the

second block of 4,000 kilowatts delivered to the Pacific Gas and Electric Company at Chico, for which a rate of 4.1316 mills per kilowatt hour was received for power at a guaranteed purchase of 100 per cent load factor. It was urged that the power delivery at Colusa Corners was closer to the purchasing company's center of load than Chico, and that the Pacific Gas and Electric Company was guaranteeing only 50 per cent load factor as against 100 per cent load factor at Chico.

The Pacific Gas and Electric Company, on the contrary, apparently takes the position that this energy is comparable with energy produced from storage, which it urges will cost it approximately 2 mills per kilowatt hour to produce on its system, and also urges a lower rate because the power is surplus to the Northern California Power Company and would be wasted unless purchased by the Pacific Gas and Electric Company.

The Pacific Gas and Electric Company fails to submit any supporting evidence, however, to the effect that any additional power, directly comparable with this purchase, could be developed on its own system within a reasonable period at a cost of 2 mills per kilowatt hour.

In this emergency time, it would appear that the rate for the excess power should be such as to encourage the greatest utilization of surplus energy in the conservation of fuel oil. The Pacific Gas and Electric Company should be encouraged to use as much of the surplus energy as can be taken on its system in order to reduce the oil consumption, and the rate should be such as would make it possible to economically take the surplus power at as high a load factor as can be delivered.

It appears that the losses on the surplus energy purchased will be greater than those on the first block owing to the extra loading of the company's system. Due to these losses, the Pacific Gas and Electric Company probably can not take the excess power at a rate comparable with the rate for the primary delivery.

On the other hand, the costs to the Northern California Power Company of delivering the surplus power do not vary but slightly with the amount delivered, as long as no binding guarantee of delivery exists. I believe that, under the circumstances, providing the Pacific Gas and Electric Company will guarantee to take 60,000,000 kilowatt hours per year, representing 11,000,000 in excess of the 70 per cent load factor guarantee on the primary power delivery, a fair rate for this surplus power would be, under the emergency conditions existing at this time,  $3\frac{1}{2}$  mills per kilowatt hour.

It should be understood in this determination that the surplus rate herein suggested should not be considered as a basis, or precedent, for future determination of rates for power delivered.

The following rates for power delivered at Kennet and Colusa Corners are considered fair and reasonable under the conditions existing in this case:

**Electric Power Rates.**

- (a) California-Oregon Power Company—Delivery to Northern California Power Company at Kennet:
- Guaranteed delivery and purchase—8,500 kilowatts at 70 per cent load factor, equivalent to 52,122,000 kilowatt hours per year.
- Rate (3.75 mills per kilowatt hour) per year.....\$195,500 00
- Energy delivered in excess of 8,500 kilowatts at 70 per cent load factor—52,122,000 kilowatt hours.
- Rate, 2.75 mills per kilowatt hours.
- (b) California-Oregon Power Company and Northern California Power Company—Delivery to Pacific Gas and Electric Company at Colusa:
- Guaranteed delivery and purchase—8,000 kilowatts at 70 per cent load factor, equivalent to 49,056,000 kilowatt hours.
- Rate (4.9 mills per kilowatt hour) per year.....\$240,000 00
- Guaranteed purchase of maximum of 4,000 kilowatts additional on a basis of 50 per cent annual load factor based upon the average peak available supply throughout the year at Colusa in excess of 8,000 kilowatts.
- Rate: All additional energy in excess of 70 per cent guaranteed load factor on 8,000 kilowatts, 3.5 mills per kilowatt hour.

The period during which the guarantee of 70 per cent load factor shall apply shall be by weeks from July 1 to December 1, and by months from December 1 to July 1.

Under the above rates it is not contemplated that the Northern California Power Company guarantees definitely to deliver 4,000 kilowatts for the seven months of October to April, inclusive, but that all energy in excess of 8,000 kilowatts, at 70 per cent load factor, will be considered as surplus, whether said energy is delivered at a higher load factor than 70 per cent at 8,000 kilowatts or at a higher peak.

A further difficulty between the parties arose over the matter of penalty or strictness of guarantee.

I believe that, as regards the first or primary delivery of 8,000 kilowatts the Northern California Power Company should guarantee this delivery definitely, and that correction should be made to the bills in case of failure to deliver the supply for any material length of time when such supply is demanded.

I hereby recommend that the commission make the following recommendations:

**RECOMMENDATIONS.**

The commission having instituted, on its own motion, an investigation into the transmission of power from California-Oregon Power Company and Northern California Power Company to Pacific Gas and Electric Company, and having advised itself regarding the question of rates for said power, and hearings having been held and the matter, in so far as it refers to the transmission and delivery of power to Northern

California Power Company and Pacific Gas and Electric Company, being submitted and now ready for decision.

The commission hereby finds as a fact that the following rates for power to be delivered, as set forth in the schedule, are just and reasonable.

**Electric Power Rates.**

- (a) California-Oregon Power Company—Delivery to Northern California Power Company at Kennett:

Guaranteed delivery and purchase—8,500 kilowatts at 70 per cent load factor, equivalent to 52,122,000 kilowatt hours per year.

Rate (3.75 mills per kilowatt hour) per year . . . . . \$195,500.00

Energy delivered in excess of 8,500 kilowatts at 70 per cent load factor—52,122,000 kilowatt hours.

Rate, 2.75 mills per kilowatt hour.

- (b) California-Oregon Power Company and Northern California Power Company—Delivery to Pacific Gas and Electric Company at Colusa:

Guaranteed delivery and purchase—8,000 kilowatts at 70 per cent load factor, equivalent to 49,956,000 kilowatt hours per year.

Rate (4.9 mills per kilowatt hour) per year . . . . . \$240,000.00

Guaranteed purchase of maximum of 4,000 kilowatts additional on a basis of 50 per cent annual load factor based upon the average peak available supply throughout the year at Colusa in excess of 8,000 kilowatts.

Rate: All additional energy in excess of 70 per cent guaranteed load factor on 8,000 kilowatts, 3.5 mills per kilowatt hour.

It is hereby recommended that:

(1) California-Oregon Power Company and Northern California Power Company enter into agreements for the transmission and delivery to Northern California Power Company of 8,500 kilowatts at Kennett.

(2) California-Oregon Power Company, Northern California Power Company and Pacific Gas and Electric Company enter into agreements for the transmission and delivery to Pacific Gas and Electric Company at Colusa of 8,000 kilowatts together with excess power as set forth in this opinion at the rates herein found to be just and reasonable for such delivery.

It is hereby further recommended that the several companies take immediate steps to conclude such agreements or contracts and to construct the transmission lines and substations required for the delivery and utilization of such power at the earliest time commensurate with economy of construction.

The foregoing opinion and recommendations are hereby approved and ordered filed as the opinion and recommendations of the Railroad Commission of the state of California.

Dated at San Francisco, California, this second day of May, 1918.



## DECISION No. 5376.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS OF THE FACE VALUE OF ONE MILLION DOLLARS.

Application No. 3601.

*Decided May 2, 1918.*

ELECTRIC UTILITIES—SECURITIES—SERVICE.—Applicant authorized to issue \$1,000,000.00 first mortgage, 5 per cent, 40-year gold bonds for new development and improvements to plant as outlined in opinion.

*Chickering & Gregory, by Warren Gregory, for Applicant.*

DEVLIN, *Commissioner.*

## OPINION.

Sierra and San Francisco Power Company asks authority to issue \$1,000,000.00 of its first mortgage 5 per cent forty-year gold bonds payable August 1, 1949. If applicant is unable to sell the bonds, it proposes to pledge the same to secure the payment of indebtedness incurred or to be incurred. Applicant proposes to issue the bonds for the purpose of reimbursing its treasury for capital expenditures prior to February 28, 1918. After such reimbursement it intends to use the funds obtained through the issue of the bonds to pay for the improvements referred to in its Exhibits Numbers One, Two and Three, to increase its hydroelectric generating capacity or for such other purposes as the Railroad Commission may authorize. I will hereafter refer to applicant's proposed expenditures.

Applicant's annual reports for the years ending December 31, 1915, 1916 and 1917, on file with the Railroad Commission show revenues and expenses as follows:

Item	1915	1916	1917
Electric operations—			
Operating revenues .....	\$1,227,825 97	\$1,366,809 86	\$1,475,028 43
Operating expenses .....	489,592 91	481,186 59	582,109 21
Net operating revenues.....	\$738,233 06	\$885,623 27	\$892,919 22
Water operations—			
Operating revenues .....	\$37,281 63	\$39,018 50	\$42,365 93
Operating expenses .....	23,104 64	24,963 32	25,385 25
Net operating revenues.....	\$14,176 99	\$14,055 18	\$16,980 68
Total net operating revenues.....	\$752,410 05	\$899,678 45	\$909,899 90

Item	1915	1916	1917
<b>Nonoperating revenues—</b>			
Miscellaneous rents—electric .....	\$339 00	\$1,925 50	\$1,720 50
Miscellaneous rents—interest .....	13,532 01	36,480 77	29,017 72
Miscellaneous rents—water .....			
Other nonoperating revenues .....	2,617 08	3,392 96	2,086 49
<b>Total nonoperating revenues.....</b>	<b>\$16,488 09</b>	<b>\$41,709 23</b>	<b>\$32,824 71</b>
<b>Gross corporate income.....</b>	<b>\$768,898 11</b>	<b>\$941,387 68</b>	<b>\$942,724 61</b>
<b>Deductions—</b>			
Uncollectible bills .....	\$3,805 66	\$895 75	\$3,907 19
Interest accrued on funded debt.....	764,288 80	816,483 34	858,150 00
<b>Total deductions .....</b>	<b>\$768,094 46</b>	<b>\$817,289 09</b>	<b>\$862,057 19</b>
<b>Profit carried to corporate surplus account .....</b>	<b>\$803 68</b>	<b>\$124,098 59</b>	<b>\$80,667 42</b>

The 1915 electric operating expenses include \$69,779.20, the 1916 include \$71,834.84 and the 1917 \$74,647.72 allowed for depreciation. The operating expenses for the water department include no allowance for depreciation except \$1,824.07 in 1917.

On December 31, 1914, applicant reported an accumulated deficit of \$390,538.62. Through the increase of its operating revenues and surplus earnings, applicant has been able to reduce within the three year period its accumulated deficit to \$215,885.10.

The balance sheet of Sierra and San Francisco Power Company as of December 31, 1917, shows the following:

<i>Asset Accounts.</i>		
Investment in fixed capital.....		\$36,397,509 23
Electric department .....	\$35,621,397 19	
Water department .....	776,112 04	
Cash .....		175,334 32
Special deposits .....		320,848 92
Notes receivable .....		223 25
Due from consumers and agents .....		432,944 37
Miscellaneous accounts receivable.....		17,588 86
Materials and supplies.....		201,193 46
Treasury securities .....		37,000 00
Prepaid expenses .....		49,642 18
Prepaid rents—credit .....	\$16 74	
Prepaid insurance .....	2,319 81	
Other prepayments .....	47,339 11	
Unamortized discount on bonds.....		143,142 09
Other suspense .....		3,757 18
Reclamation district warrants.....		248 52
Corporate deficit .....		215,885 10
<b>Total asset accounts .....</b>		<b>\$37,995,317 48</b>

*Liability Accounts.*

Stock outstanding -----		\$20,000,000 00
Funded debt -----		17,000,000 00
First mortgage -----	\$7,500,000 00	
Second mortgage, Series "A" -----	1,000,000 00	
Second mortgage, Series "B" -----	8,500,000 00	
Accounts payable -----		171,641 59
Audited vouchers and wages unpaid -----	\$154,104 17	
Consumers' deposits -----	5,219 77	
Miscellaneous accounts payable -----	12,317 65	
Interest accrued -----		156,250 00
Taxes accrued -----		40,003 92
Reserve for accrued depreciation -----		294,210 35
Casualty and insurance reserves -----		19,337 70
Interest matured -----		313,873 92
Total liability accounts -----		\$37,905,317 48

It will be noted that under its asset accounts, applicant reports special deposits amounting to \$320,848.92. This item includes \$313,873.92 deposited with the trustees under applicant's first and second mortgage to pay matured interest coupons reported by applicant under liability accounts in the amount of \$313,873.92.

Applicant in its Exhibit Number One, as explained at the hearing, reports that it will have to expend \$133,257.34 to complete construction work in progress on March 31, 1918. In Exhibit Number Two, applicant reports the balance required to complete construction requisitions pending at \$63,623.94, while in Exhibit Number Three, it reports \$463.03 expended on jobs in suspense, for which amount there have been no requisitions. The items reported in Exhibits Number One, Two and Three aggregate \$197,344.31. The \$197,344.31 includes an expenditure of—

- \$29,637 34 necessary to complete the installation of turbine at North Beach;
- 5,150 40 to complete the installation of "Cable North Beach to Turk and Fillmore substation";
- 7,098 20 for "Turk street changes";
- 1,501 91 for "Constructing 11 K. V. pole line from North Beach to Mason and Washington";
- 3,442 00 for "Interconnection of power systems at North Beach";
- 5,254 00 for "Cable for Universal Gas and Electric Company, Turk street to California street";

making a total expenditure for improvements to property located in San Francisco of \$52,083.85. The cost of construction work in progress and requisitions pending outside of San Francisco, together with expenditures incurred for which no requisitions have been made aggregates \$145,260.46. Of this amount, applicant proposes to expend—

\$12,311 85 to complete a substation at Copperopolis;

3,395 97 to complete a substation at Manteca;

20,750 84 to complete a substation at Modesto;

18,555 81 to complete a substation at Bethany;

7,502 10 to build a substation at Oakdale;

14,080 20 to increase the capacity of the Stanislaus flume;

15,000 00 for the Indian Creek diversion;

15,071 70 to complete the Manteca-Bethany line;

leaving a balance of \$37,982 99, which represents the amount estimated as necessary to complete distribution lines and other improvements.

Applicant's plans for the increase of its hydroelectric generating capacity contemplates the addition of a penstock to the existing Stanislaus plant, the enlargement of the present flume, the installation of an additional plant, known as the Upper Stanislaus plant, enlargement of the diversion ditch from the South Fork of the Stanislaus River to the forebay of the proposed plant, and the construction of an additional reservoir, known as Big Dam, on the South Fork of the Stanislaus River.

Mr. H. F. Jackson, president of Sierra and San Francisco Power Company, estimates the cost of all of these improvements at approximately \$2,500,000.00.

The testimony shows that the total peak load on the company's system at the present time exceeds its hydrogenerating capacity by approximately 10,000 kilowatts and that the energy output of its existing hydroelectric plants is utilized completely.

There is no doubt that the Sierra and San Francisco Power Company should have more hydroelectric plant capacity developed and more electric energy available.

The gas and electric division of the Railroad Commission has made an analysis of the proposed developments suggested by the company and has suggested certain developments which would materially add to the present output of the plants both in peak capacity and kilowatt hour production at a comparatively low cost.

The company's present Stanislaus plant is limited in its peak capacity and output by the capacity of the penstocks installed, which are operated at low efficiency. By the addition of a third penstock to the existing Stanislaus plant at an estimated cost of \$150,000.00, the peak capacity of that plant could be increased 3,200 kilowatts by a reduction in the present excessive losses in the existing penstocks. This reduction would cause an increase in the plant output of approximately 13,000,000 kilowatt hours per year with a resulting oil conservation of at least 60,000 barrels of oil per year. This work should be completed by the spring of 1919.

The company at present diverts water from the south fork of the Stanislaus River to the north fork by a ditch some five miles in length, known as the Philadelphia ditch. In this diversion, water at the present time flows down the mountain side a distance of  $1\frac{1}{4}$  miles through a drop of 1,860 feet. With the present storage available, the average flow throughout the year will approximate 25 or 30 second-feet. It is recommended that at the present time Sierra and San Francisco Power Company install a 5,000 kilowatt plant utilizing this natural drop. This development can be made by the fall of 1919 if work is commenced this summer. This will produce an annual energy output of 25,000,000 kilowatt hours.

The ultimate development planned for the Upper Stanislaus plant is 9,000 kilowatts. However, this development would not be necessary until the company has enlarged its storage capacity on the south fork of the Stanislaus River. It is estimated that the plant, to a capacity of 5,000 kilowatts, could be constructed for approximately \$450,000.00 and that the completed 9,000 kilowatt plant would cost in the neighborhood of \$600,000.00.

The third recommendation of the commission's engineers is that applicant increase the capacity of its present Stanislaus flume, by which, during the flood water period, applicant could obtain an additional supply of 50 second-feet to the present plant. The cost of making this improvement is taken care of in applicant's Exhibit Number Two.

The development suggested will increase the capacity of the company's hydroelectric plants 10,000 kilowatts in peak and will add to the output between 35,000,000 and 40,000,000 kilowatt hours per year. I recommend that applicant proceed with the construction of the improvements referred to in its Exhibit Numbers One and Two; with the installation of an additional penstock at its Stanislaus plant; with the installation of its Upper Stanislaus plant along the lines indicated above and out of the proceeds from the issue of the bonds pay for the improvements referred to in its Exhibit Number Three. This recommendation is made on the assumption that the company will be able to sell \$1,000,000.00 of bonds, or otherwise obtain funds to complete the work herein outlined. I believe that only such units of work should be started as applicant will be able to complete without suspending work on account of lack of funds.

The construction of the Big Dam reservoir located on the south fork of the Stanislaus River should, in my opinion, be held in abeyance for the time being. The cost of this dam is estimated at \$900,000.00. The proposed reservoir will have a storage capacity of 16,500 acre-feet. It is located above the proposed Upper Stanislaus plant and the

water would be available for utilization through the two Stanislaus plants and increase the company's output of hydroelectric energy approximately 35,000,000 kilowatt hours per year.

In its decision of October 24, 1916 (Vol. 11, Opinions and Orders of the Railroad Commission of California, page 693), the Railroad Commission referred to the history of Sierra and San Francisco Power Company, and called attention to some of the provisions of the company's first and second mortgages.

Applicant in its Exhibit Number Six reports the cost of its properties at \$14,611,282.96. In Exhibit "A," attached to the petition herein, applicant reports \$7,500,000.00 5 per cent first mortgage, \$1,000,000.00 of Series "A" 6 per cent second mortgage and \$8,500,000.00 of Series "B" 5 per cent second mortgage bonds as outstanding. As a matter of fact \$37,000.00 of the Series "B" bonds are in the company's treasury, leaving \$8,463,000.00 not in the possession of the company.

It appears that applicant's second mortgage permits the company to issue a total of \$30,000,000.00 of first mortgage bonds. Mr. H. F. Jackson, president of the Sierra and San Francisco Power Company, testified that the company in proposing to issue at this time \$1,000,000.00 of its first mortgage bonds will violate none of the rights of the second mortgage bondholders, and that in its proposal to issue additional first mortgage bonds, the company is carrying out the plan that was made and agreed to by the Protective Committee of the second mortgage bondholders at the time the company was organized.

Applicant in its amended Exhibit "II," Application No. 2586, reported capital expenditures to August 31, 1916, amounting to \$1,270,962.62. To reimburse its treasury because of these expenditures the Railroad Commission on October 24, 1916, authorized applicant to issue \$1,000,000.00 of its first mortgage 5 per cent bonds at not less than 85 per cent of their face value, plus accrued interest, provided that the company after reimbursing its treasury would use the proceeds from the sale of the bonds for capital purposes. The \$850,000.00 obtained through the issue of the \$1,000,000.00 of bonds has, according to the reports of the company, been expended for capital purposes. Adding to the expenditures reported in Exhibit "II," Application No. 2586, the capital expenditures of applicant reported from August 31, 1916, to February 28, 1918, makes a total of \$2,274,982.77. Deducting from this amount the \$1,000,000.00 of bonds issued pursuant to the commission's decision of October 24, 1916, leaves a balance of \$1,274,982.77. Applicant under its first supplemental mortgage may issue bonds equal to 80 per cent of its capital expenditures.

As said above, applicant now asks authority to issue \$1,000,000.00 of first mortgage bonds to reimburse its treasury in part for capital expenditures prior to February 28, 1918. After such reimbursement it proposes to use the funds obtained through the issue of said \$1,000,000.00 of bonds for such purposes as the commission may authorize. In general, I believe that the funds obtained through the issue of the bonds should be used to finance the construction work referred to above.

Applicant asks permission to sell or pledge the \$1,000,000.00 of bonds it desires to issue. While reference was made at the hearing to the issue of serial notes, the payment of which is to be secured by the pledging of bonds, the issue of these notes is not now before the commission. In view of the testimony in this proceeding I do not believe it necessary for the commission at this time to pass upon the question of pledging the bonds to secure the payment of indebtedness.

I herewith submit the following form of order:

#### ORDER.

Sierra and San Francisco Power Company having applied to the Railroad Commission for authority to issue \$1,000,000.00 of its first mortgage 5 per cent 40-year gold bonds payable August 1, 1949, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Sierra and San Francisco Power Company be and it is hereby granted authority to issue \$1,000,000.00 of its first mortgage 5 per cent 40-year gold bonds, payable August 1, 1949, upon the following conditions:

1. The bonds herein authorized to be issued shall be sold by applicant for not less than 80 per cent of their face value, plus accrued interest.

2. The bonds herein authorized to be issued shall be used by applicant to reimburse its treasury in part for capital expenditures incurred prior to February 28, 1918, and after such reimbursement, all funds obtained through the issue of the bonds shall be expended only for such purposes as authorized by the commission in a supplemental order or orders herein, it being understood that in general the funds obtained from the issue of the bonds will be used for the purpose of financing the improvements referred to in the foregoing opinion.

3. Sierra and San Francisco Power Company shall keep separate, true and accurate accounts showing the receipt and application in

detail of the proceeds from the sale of the bonds herein authorized to be issued and on or before the twenty fifth day of each month the company shall make verified reports to the Railroad Commission as required by the commission in its General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

5. The authority herein granted shall apply only to such bonds as may be issued on or before December 31, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this second day of May, 1918.

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Decision No. 5378.

IN THE MATTER OF THE APPLICATION OF WALNUT CREEK WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE INSTALLATION OF METERS AND THE CHARGING OF A METER RATE.

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Application No. 3104.

*Decided May 3, 1918.*  
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*Winfield Dorn*, for Applicant.

*William J. Locke*, for city of Walnut Creek.

DEVLIN, *Commissioner*.

**OPINION.**

Heretofore Walnut Creek Water Company filed its application herein requesting the authority of the commission to establish rates set forth in its application.

Public hearing was had on the application, at which hearing protest was made by the city of Walnut Creek, appearing through its city attorney, and other consumers. At the conclusion of the testimony, time was granted for the filing of briefs and thereafter the matter was submitted.

The city of Walnut Creek, through its attorney, at the hearing resisted the application of the company as to the amount of increase asked for.

Many questions were presented both of an engineering and legal character which, for reasons hereinafter stated, it will be unnecessary to discuss and pass upon in this opinion.

The city attorney of Walnut Creek has addressed a letter to the commission advising the commission that on May 1, 1918, at the regular meeting of the board of trustees of Walnut Creek a large delegation



from the chamber of commerce of that town and other individual citizens requested that this commission grant the application of the company, in which request the board of trustees also joins.

Under these circumstances, and in view of the fact that opposition to the increase asked for by the company has been withdrawn and that the application for such increase has been concurred in by the board of trustees of Walnut Creek and the other parties referred to, and under the peculiar conditions now existing with regard to the supply of water in that community, it is my opinion that the increase prayed for by the company should be granted.

The rate now in effect and charged by applicant is \$1.50 per month per connection regardless of the amount of water used or the character of use. Applicant now desires to install meters and apply a uniform rate of 50 cents per thousand gallons.

For the reasons hereinbefore stated, I recommend that the application be granted and submit the following form of order:

**ORDER.**

Walnut Creek Water Company having made application to the Railroad Commission of the state of California for authority to install meters to be used in connection with the sale and distribution of its water supply, and to charge for water supplied at the rate of 50 cents per thousand gallons, and the commission being fully apprised in the premises,

*It is hereby ordered* that the above application be granted and that the change of rate may be made effective on or after June 1, 1918.

*It is hereby further ordered* that the Walnut Creek Water Company file with the commission within fifteen (15) days from the date of this order a statement setting forth the schedule of rates provided for herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this third day of May, 1918.

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DECISION No. 5381.

IN THE MATTER OF THE APPLICATION OF ORANGE COVE IRRIGATION COMPANY, AND BOARD OF PUBLIC SERVICE COMMISSIONERS OF THE CITY OF LOS ANGELES, FOR AN ORDER AUTHORIZING THE SALE OF PUBLIC UTILITY PROPERTY.

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Application No. 3719.

*Decided May 8, 1918.*

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BY THE COMMISSION.

**ORDER.**

Orange Cove Irrigation Company having asked authority to transfer to the board of public service commissioners of the city of Los Angeles

its public utility water system situated in part within the city of Los Angeles, and in part without the city of Los Angeles, the transfer to be made in accordance with the form of deed attached to the application herein and marked "Exhibit B," in which the property to be transferred is described as follows:

(a) All water pipes, service connections, fittings, and extensions constituting the distributing system of the Orange Cove Irrigation Company, and located in that certain Tract No. 482, as per map recorded in Book 15, pages 86, 154 and 155 of Maps, Records of Los Angeles County; excepting therefrom the well and pumping plant on Lot 36 in said tract, and the ground on which said well and pumping plant are situated.

(b) That certain piece or parcel of land described as the easterly 1.02 acres of Lot 57, Tract No. 482, as per map recorded in Book 15, pages 86, 154 and 155 of Maps, Records of Los Angeles County, together with all improvements situated thereon, consisting of a reinforced concrete reservoir of approximately 500,000 gallons capacity; excepting from said 1.02 acres the easterly 40 feet of said Lot 57 heretofore conveyed to the county of Los Angeles for a public highway.

(c) All franchises or rights of way owned by or held for said first party, and used or necessary in connection with the construction or operation of said pipe lines, or any part thereof, or any extension of said pipe lines.

(d) All maps and records pertaining to said water system and relating to pipes, services, consumers, property, rates, etc., but not the book accounts of said party of the first part.

And the board of public service commissioners of the city of Los Angeles having joined in the application, and it appearing that this is not a case in which a public hearing is necessary and that the application should be granted.

*It is hereby ordered* that the application herein be and the same is hereby granted; provided:

1. That the authority herein granted to transfer said property shall apply only to such property as is transferred on or before May 31, 1918;

2. That a certified copy of the deed of conveyance executed in accordance with this order shall be filed with this commission within fifteen (15) days after the execution thereof; and

3. That this authority shall not become effective until the board of public service commissioners of the city of Los Angeles shall have filed with this commission a stipulation that they assume all the obligations of said Orange Cove Irrigation Company as a public utility in the service of water, and will give as good and adequate service as has heretofore been given to the consumers of said company.

Dated at San Francisco, California, this eighth day of May, 1918.

## DECISION No. 5383.

IN THE MATTER OF THE APPLICATION OF MURRIETTA VALLEY  
ELEVATOR COMPANY FOR AN ORDER AUTHORIZING SAID COR-  
PORATION TO SELL AND ISSUE SHARES OF ITS CAPITAL STOCK.

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Application No. 3700.

*Decided May 8, 1918.*

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WAREHOUSES—SECURITIES—SERVICE.—Applicant authorized to issue stock for construction of a warehouse, the commission finding that the warehouse will enable grain growers to store and market grain at a considerably less cost than through the use of sacks, which are expensive and at the present time probably unobtainable.

*Sara & Thompson*, for Applicant.

EDGERTON, *Commissioner*.

**OPINION.**

Applicant is a corporation organized by grain growers of Murrietta and Riverside, in Riverside County.

It is proposed to purchase land in the townsite of Murrietta and erect thereon a grain elevator of 30,000 bushels capacity, in which grain will be stored without sacking.

The shortage of sacks because of war conditions has become so serious that it is necessary to provide a means of handling grain without sacking.

Furthermore, storing grain in bulk will very much reduce the cost of handling and sale.

It is estimated that storage in an elevator as compared with the use of sacks will result in a saving of \$1.25 per \$100.00 value.

It is proposed to issue \$21,500.00 par value of stock to be sold at par; grain growers to subscribe for this stock in an amount equal to 75 per cent of what their outlay for bags or sacks would be.

Applicant desires to have alternative authority to pledge stock at par for the loan of \$8,000.00, the banks already having agreed to loan \$8,000.00 when \$10,500.00 is on deposit with them from the sale of stock.

Applicant proposes to build its warehouse by contract. The land upon which the elevator is to be built consists of about two acres in the townsite of Murrietta and will be obtained at a cost of \$1,020.00.

This application should be granted. The erection of this warehouse will enable grain growers to store and market grain at a considerably less cost than through the use of sacks which are expensive and at the present time probably unobtainable. This saving can be made even though reasonable storage rates are charged. Applicant has not yet prepared a definite schedule of rates but proposes to file these as soon as determined upon.

Herewith a form of order:

**ORDER.**

Application having been made by Murrietta Valley Elevator Company for an order authorizing the issue of capital stock and a hearing having been had and it appearing to the commission that said application should be granted under the conditions specified herein,

*It is hereby ordered* by the Railroad Commission of the state of California that Murrietta Valley Elevator Company is hereby authorized to issue \$21,500.00 par value of its capital stock and to sell said stock so as to net applicant not less than par.

The proceeds from the sale of said stock shall be used only for the purpose of acquiring real estate and erecting a grain elevator thereon of a capacity of not less than 30,000 bushels and for incidental expenses as are set out in the application herein.

Provided that before any of the money derived from the sale of said stock shall be used, applicant shall have filed with the commission a copy of the contract or contracts for the erection of said grain elevator and a detailed statement of any incidental expense proposed to be paid from the proceeds of this stock issue and shall have obtained a supplemental order of the commission approving the same.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eighth day of May, 1918.

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DECISION No. 5388.

IN THE MATTER OF THE APPLICATION OF PORTOLA WATER COMPANY, A COPARTNERSHIP, TO SELL AND OF THE PORTOLA WATER COMPANY, A CORPORATION, TO PURCHASE THE PORTOLA WATER SYSTEM.

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Application No. 3654.

*Decided May 8, 1918.*

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BY THE COMMISSION.

**OPINION.**

N. F. Golden, J. H. Golden, E. I. Lane and E. V. Darby, copartners, doing business under the firm name and style of the Portola Water Company, asks authority to transfer the public utility water properties described in Exhibit "1," attached hereto, to Portola Water Company, a corporation. The corporation joins in this application and asks authority to issue \$12,000.00 of its common capital stock in exchange for the properties.

A public hearing was held in this application before Examiner Westover on April 30, at San Francisco.

The vendors are engaged in operating a public utility water plant at Portola, Plumas County. The commission in its decision of September 28, 1916 (Vol. 11, Opinions and Orders of the Railroad Commission of California, page 401), referred to the history of the public utility properties involved in this application. In fixing the rates to be charged the commission assumed the fair and reasonable value of the properties to be \$12,000.00. The copartners propose to transfer the properties to the corporation in exchange for \$12,000.00 par value of common capital stock.

Applicants report that it will be necessary during the present year to increase the water available for distribution at Portola, that for this purpose additional capital funds will be required and they believe that these funds can be more readily obtained if the title to the properties vests in a corporation. Neither the matter of the improvements nor the issue of stock to pay for such improvements is at this time before the commission.

Portola Water Company, a corporation, was organized in March, 1918, with an authorized capital stock of \$25,000.00, divided into 2,500 shares of the par value of \$10.00 each. As said, the corporation now proposes to issue \$12,000.00 of its stock in payment for the properties described in Exhibit "1," attached hereto.

#### ORDER.

N. F. Golden, J. H. Golden, E. I. Lane and E. V. Darby, copartners, doing business under the firm name and style of the Portola Water Company, having applied to the Railroad Commission for authority to sell their public utility water plant, and Portola Water Company, a corporation, having applied to the commission for authority to purchase the same and issue stock in payment therefor, a hearing having been held, and the commission being of the opinion that this application should be granted and that the property to be procured or paid for by the issue of stock is reasonably required for the purpose specified in the order and that such purpose is not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that N. F. Golden, J. H. Golden, E. I. Lane and E. V. Darby, copartners doing business under the firm name and style of the Portola Water Company be and they are hereby granted authority to transfer the public utility water properties described in Exhibit "1," attached hereto, to the Portola Water Company, a corporation.

*It is hereby further ordered* that the Portola Water Company, a corporation, be and it is hereby granted authority to issue at not less

than the par value thereof, \$12,000.00 of its common capital stock, upon the following conditions:

1. The stock herein authorized to be issued shall be delivered to N. F. Golden, J. H. Golden, E. L. Lane and E. V. Darby in exchange for the properties described in Exhibit "1," attached hereto.

2. The authority herein granted shall not be considered before this commission or any other tribunal as determining the value of said properties for the purpose of fixing rates or for any other purpose than that of the present application.

3. Within ten days after receiving conveyance of said properties, Portola Water Company, a corporation, shall file with the Railroad Commission a copy of the deed of conveyance.

4. The authority herein granted shall not become effective until Portola Water Company, a corporation, shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, declaring that Portola Water Company will never claim before the Railroad Commission or any court or other public body a value for the franchise rights granted by Ordinance No. 168 of the board of supervisors of Plumas County in excess of the amount actually paid to Plumas County as the consideration for the grant of such franchise, which amount shall be stated in said stipulation, nor until the Portola Water Company shall have received from the Railroad Commission a supplemental order declaring that such stipulation in form satisfactory to the Railroad Commission has been filed with the Railroad Commission.

5. Portola Water Company, a corporation, shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month, until all of said stock has been issued, make verified reports to the Railroad Commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted shall apply only to such stock as shall have been issued on or before September 1, 1918.

Dated at San Francisco, California, this eighth day of May, 1918.

#### EXHIBIT "1."

In a statement attached to the petition herein, the properties to be transferred by N. F. Golden, J. H. Golden, E. L. Lane and E. V. Darby, co-partners doing business under the firm name and style of Portola Water Company, to the Portola Water Company, a corporation, are described as follows:

That certain franchise granted by Ordinance of the Board of Supervisors of the County of Plumas, State of California, being Ordinance No. 168, duly passed by unanimous vote of said Board of Supervisors on the 7th day of January, 1911;

The N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Section 11, Tp. 22 N. R. 13. E. M. D. M.:

Lot 16 of Block 15 of Robert's Lumber Company Addition to the townsite of Portola, Plumas County, California:

All springs situate in the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 7, T. 22 N. R. 14 E. M. D. M., and the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Sec. 5, T. 22 N. R. 14 E. M. D. M. and in the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Sec. 11, tp. 22 N. R. 13 E. M. D. M., Plumas County, California;

Also those certain water appropriations recorded in Volume 2 of Water Claims, page 295; Volume 2 of Water Claims, page 335; Volume 2 of Water Claims, page 340; Volume 3 of Water Claims, page 41, and Volume 3 of Water Claims, page 122, records of Plumas County, California.

Also right of way over and across the N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Sec. 7, Tp. 22 N. R. 14 E. and the W $\frac{1}{2}$  of Sec. 6, same township and range, for the construction and maintenance of ditches, pipe lines and flumes for the conveyance of water, with any reservoir sites, dam sites or other storage facilities for water, available thereon;

Also right of way over and across Lots 1 and 6 Sections 6 and 7, Tp. 22 N. R. 14 E. and N $\frac{1}{2}$  of NE $\frac{1}{4}$  Sec. 11 Tp. 22 N. R. 13 E. M. D. M., for the construction and maintenance of ditches, flumes and pipe lines.

Also all rights granted by the Roberts Lumber Company, by agreement dated September 15, 1913, recorded in Volume 6 of Agreements, page 140, records of Plumas County, California;

Together also with all pipe lines, pipe and connections, all reservoirs and reservoirs sites, dam and dam sites, water and water rights, and all property real or personal owned by the Portola Water Company, a co-partnership, in the County of Plumas, State of California, including all bills receivable, cash on hand, including all bank accounts and deposits and sinking funds.

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#### DECISION No. 5391.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER TO REMOVE A PORTION OF ITS TRACKS AND ABANDON A PORTION OF ITS FRANCHISE UPON PROSPECT STREET IN LA JOLLA PARK.

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Application No. 3661.

*Decided May 11, 1918.*

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BY THE COMMISSION.

#### ORDER.

Whereas Los Angeles and San Diego Beach Railway Company, a corporation has made application for permission to abandon and remove its railroad tracks on Prospect street in La Jolla Park in the city of San Diego, particularly described as follows, to wit:

Commencing at the southeasterly line of the intersection of Cave street with Prospect street in La Jolla Park; running thence along and upon said Prospect street to an intersection and junction with its existing route between Cuvier street and Silverado street, at a point where the southerly line of lot 8, in block 35 of said La Jolla Park, if extended easterly, would intersect said route; and

Whereas the franchise granted by the city of San Diego does not permit the operation of steam trains over the portion of track proposed

to be abandoned, and the operation of cars over such track is not necessary for the public convenience; and the consent of the city council of the city of San Diego has been obtained permitting the abandonment of the portion of the franchise covered by the hereinbefore-described route and the removal of the tracks therefrom as evidenced by certified copy of Ordinance No. 7314 as adopted by said city council on March 11, 1918, attached to the application in this proceeding; and

Whereas it appears to the commission that this is not a matter in which a public hearing is necessary for the reason that the applicant has obtained the permission of the legislative authority of the city of San Diego as hereinabove stated, qualified, however, as requiring the consent and approval of this commission, and that the application should be granted,

*It is hereby ordered* that this application be and the same hereby is granted,

The removal of tracks hereby authorized shall be completed within twenty-five days after the date of service of this order.

Dated at San Francisco, California, this eleventh day of May, 1918.

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DECISION No. 5392.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES RAILWAY CORPORATION FOR AN ORDER AUTHORIZING IT TO DISCONTINUE RAILWAY SERVICE ON CERTAIN OF ITS LINES.

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Application No. 3731.

*Decided May 16, 1918.*

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BY THE COMMISSION.

**ORDER.**

Los Angeles Railway Corporation has petitioned the Railroad Commission for an order authorizing the discontinuance of street railway service and removal of tracks on certain portions of its street railway system in the city of Los Angeles, more particularly described as follows:

1. Beginning at the intersection of Ann street and North Spring street (formerly San Fernando street) in the city of Los Angeles, county of Los Angeles, state of California, and running thence northeasterly along North Spring street to its intersection with Avenue 18.

2. Beginning at the intersection of the private right of way of said company lying immediately north of Third street with Bimini place, thence southerly along said Bimini place to Third street, thence westerly along Third street to Vermont avenue.

3. Beginning at the intersection of Hooper avenue (formerly Tennessee street) and Fourteenth street in the city of Los Angeles,



county of Los Angeles, state of California, and running thence easterly along Fourteenth street to Wilson street; thence northerly along Wilson street to Eleventh street; thence easterly along Eleventh street to Santa Fe avenue.

Formal consent of the city council of the city of Los Angeles has been obtained to the abandonment of service and removal of tracks as evidenced by copies of Ordinances Nos. 38115 (new series), 37701 (new series), and 37848 (new series), attached to the application in this proceeding.

We are of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted.

*It is hereby ordered* that this application be and the same hereby is granted upon the following terms and conditions:

1. The discontinuance of the service and the removal of the tracks, poles, wires, and other appurtenances on the hereinabove described portions of the street railway system of applicant shall be accomplished within sixty days from the date of the service of this order.

2. The portions of the streets from which tracks are removed shall be restored to a condition equivalent to the remaining portion of the streets and in accordance with the provisions of Ordinances Nos. 38115 (new series), 37701 (new series), and 37848 (new series) as passed by the common council of the city of Los Angeles under dates April 23, 1918, November 26, 1917, and January 21, 1918, respectively.

Dated at San Francisco, California, this sixteenth day of May, 1918.

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DECISION No. 5396.

IN THE MATTER OF THE APPLICATION OF WILLIAM F. FOWLER, AS RECEIVER OF THE CANAL AND IRRIGATION SYSTEM FORMERLY OWNED BY SACRAMENTO VALLEY WEST SIDE CANAL COMPANY, FOR AN ORDER AUTHORIZING THE LEASE OF A PORTION OF THE QUINT LATERAL TO P. B. CROSS.

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Application No. 3686.

*Decided May 16, 1918.*

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*Bacigalupi & Elkus*, for Petitioner.

BY THE COMMISSION.

**OPINION.**

William F. Fowler, receiver of the property formerly owned and operated by Sacramento Valley West Side Canal Company, in Glenn and Colusa counties, asks authority to lease to P. B. Cross for the term of forty years, specified rights in that portion of the Quint lateral

which is described in the order herein. A copy of the lease to be executed by Mr. Fowler is attached to the petition herein as Exhibit "A" and is substantially in the form of the lease referred to in Decision No. 4655, made on September 21, 1917, in Application No. 3190, being application for authority to lease to P. B. Cross another portion of the Quint lateral. Reference is hereby made to Decision No. 4655.

There is on file in this proceeding a letter from Mr. C. L. Donohoe, dated May 8, 1918, stating that California Midland Realty Company, over whose property the affected portion of the Quint lateral runs, has no objection to the granting of the petition. No one, other than the parties to this petition, appears to have any interest in the matter.

#### ORDER.

William F. Fowler, receiver of the property of the Sacramento Valley West Side Canal Company, having filed herein his petition asking authority to lease to P. B. Cross the right to use the portion of the Quint lateral, hereinafter more particularly described, under the terms and conditions of the form of lease hereinafter referred to, and the Railroad Commission being fully advised,

*It is hereby ordered* that William F. Fowler, receiver of the public utility water system formerly owned and operated by Sacramento Valley West Side Canal Company, be and he is hereby authorized to lease to P. B. Cross for the period of forty (40) years, and under the terms and conditions which are set forth in copy of proposed lease which is attached to the petition herein, that portion of the Quint lateral which is described as follows:

A strip of land 50.0 feet in width, the west boundary line of which is east of parallel to and 20.0 feet from, the center line of the Willow Creek levee, said center line being described as follows:

Beginning at the point where the center line of the Willow Creek levee intersects the line between the Sacramento Valley Colony No. 1 and the Peter Barnes Tract, both being portions of the Larkin's Children's Rancho, in Colusa County, California, said point being north 89° 47' west 5,560.0 feet from the southeast corner of the said Peter Barnes Tract, thence north 3° 45' east 519.6 feet, thence north 1° 44' east 2,343.5 feet to the intersection with the line between the said Peter Barnes Tract and the Hart Tract, and north 89° 17' west 5,492.5 feet from the northeast corner of the said Peter Barnes Tract, containing 3.3 acres, situate in the county of Colusa, state of California.

Within ten (10) days after the execution of the lease herein authorized, petitioner shall file with the Railroad Commission a certified copy thereof.

Dated at San Francisco, California, this sixteenth day of May, 1918.

## DECISION No. 5407.

IN THE MATTER OF THE APPLICATION OF COACHELLA WATER COMPANY, J. R. HOLLIDAY AND B. A. HOOK TO SELL AND TRANSFER ALL THE PROPERTY OF THE CORPORATION TO SAID HOLLIDAY AND HOOK.

Application No. 3619.

*Decided May 20, 1918.*

*Samuel H. French, for Applicant.*

EDGERTON, *Commissioner.*

**OPINION.**

Coachella Water Company asks authority to sell all of its properties to J. R. Holliday and B. A. Hook for the consideration to which reference will hereafter be made. A description of the properties is contained in Exhibit "A," attached to the petition herein.

In its decision of February 21, 1916 (Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 224), the Railroad Commission considered the history of Coachella Water Company. Applicant in its petition herein reports \$15,000.00 par value of stock outstanding. The stock is owned by the following:

J. R. Holliday -----	\$7,400.00
Mrs. J. R. Holliday -----	100.00
B. A. Hook -----	7,400.00
Mrs. B. A. Hook -----	100.00

To enable the company to reconstruct its plant and improve its system, J. R. Holliday has advanced to it \$2,555.40. Applicant reports that it has no other indebtedness.

Upon the condition that J. R. Holliday and B. A. Hook will pay the \$2,555.40 of indebtedness, applicant proposes to convey to them all of its properties.

Holliday and Hook own practically all of the outstanding stock of Coachella Water Company and have managed the property in effect as a partnership. They report that there is no advantage or benefit in the management or operation of the plant in having the ownership thereof in a corporation. To avoid the expenses incident to the corporate form of organization, applicant desires to sell its properties to J. R. Holliday and B. A. Hook.

I herewith submit the following form of order:

**ORDER.**

Coachella Water Company having applied to the Railroad Commission for authority to sell and transfer all of its properties to J. R. Holliday and B. A. Hook, a hearing having been held and the commission being of the opinion that this application should be granted,

*It is hereby ordered* that Coachella Water Company be and it is hereby granted authority to sell to J. R. Holliday and B. A. Hook for the consideration referred to in the foregoing opinion the following property:

"Lots nine (9), ten (10) and eleven (11) of block twenty-four (24), in the town of Coachella, as per map on file in Book 6, page 49 of Maps, Records of Riverside County, California, together with the appurtenances, and among other things the storage tank, pump, electric motor and tools and appliances used in connection therewith, 3,960 feet more or less of metal pipe 6 to 12 inches in diameter, 9,88½ feet more or less of metal pipe less than 6 inches in diameter, and all other property of every sort and nature belonging to said corporation, or in which it has any interest"—

upon the following conditions:

(1) Within thirty days after the transfer of the property herein authorized, J. R. Holliday and B. A. Hook shall file with the Railroad Commission a verified copy of the deed of conveyance.

(2) The authority herein granted to convey and acquire property shall not be considered before this commission, or any other public authority, as representing for rate-fixing or purposes other than this application the actual value of the property of Coachella Water Company.

(3) The authority herein granted to transfer property shall apply only to such property as shall be transferred on or before July 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twentieth day of May, 1918.

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DECISION No. 5409.

EL DORADO COUNTY WATER USERS' ASSOCIATION

vs.

WESTERN STATES GAS AND ELECTRIC COMPANY.

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Case No. 1107.

*Decided May 20, 1918.*

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**WATER SERVICE—WATER USE.**—(1) Defendant found to have devoted to public use all of the waters controlled by it, the public use consisting of service for domestic, mining, irrigation and hydroelectric uses.

(2) There is no preference on the question of public use as between irrigation and hydroelectric use.

(3) Obligation of a utility is not limited to supplying merely the water delivered in the past to consumers. The utility can be required to make reasonable additions to the quantity of service and the facilities for developing service.

(4) Provided its obligations as a public utility to existing consumers are taken care of, a water utility may devote additional available water to a new public use such as hydroelectric development.

*B. D. M. Greene*, for Complainant.

*Chickering & Gregory*, by *Allen L. Chickering* and *George H. Thompson*, for Defendant.

*Percy A. Wood*, for Placerville Water Works, Intervenor.

*THELEN, Commissioner.*

#### OPINION.

The complaint herein alleges, in effect, that El Dorado County Water Users' Association is a co-operative association, formed for the purpose, among other matters, of securing united efforts upon the part of all water users in El Dorado County to obtain for its members an adequate supply of water for irrigation and domestic use and for the purpose of conducting such legal proceedings before the Railroad Commission as may be necessary to protect the rights and interests of the water users of said county; that at the time of the filing of the complaint said association had at least 235 members; that defendant is a public utility corporation engaged in the business of selling gas, electricity and water; that in defendant's Stockton division it sells gas in and about the city of Stockton and electricity in the counties of El Dorado, Sacramento, Amador, Calaveras and San Joaquin; that in the month of December, 1916, defendant purchased from Placerville Gold Mining Company, a public utility, its water system in El Dorado County used for the purpose of supplying water for the public use, namely, for domestic consumption to a portion of the city of Placerville and for irrigation purposes to agricultural consumers in the country districts of El Dorado County; that said purchase was made by defendant for the purpose of increasing the water supply of this system and of using the same to develop additional electric energy through existing and additional electric equipment; that in purchasing said water system, defendant assumed all the duties and obligations of Placerville Gold Mining Company to supply water for irrigation purposes in El Dorado County; that subsequent to its purchase of the system, defendant has made public announcement that it intends to devote to the development of electric energy all water developed or to be developed in this system and not required for the purpose of supplying the needs of the existing consumers to the extent to which they have in the past been supplied; that many consumers of water in El Dorado County have lands with growing orchards and other agricultural products for which it is now necessary to secure more water than has heretofore been used; that many present consumers of water in this county will in the future plant additional acreage to crops for which irrigation will be necessary

and that for this purpose they must necessarily purchase water from the defendant's system for the reason that no other irrigation water is available; that other farmers who are not now irrigating their lands will in the future require water from this system; that it is necessary to obtain a complete adjudication of the rights of the consumers of water and of the defendant; and that this proceeding is brought in behalf of all water consumers in the county of El Dorado, present and prospective, who are now purchasing or will in the future desire to purchase water from the defendant for lands which can be irrigated from the defendant's water system. The complainant asks the Railroad Commission to make its order declaring that said water system is dedicated to the service of supplying water to the residents of El Dorado County for irrigation purposes; directing defendant to furnish to residents of El Dorado County such water as is now necessary or may hereafter be necessary for irrigation purposes; and directing defendant to extend and enlarge its system to furnish water for irrigation as the future needs of the irrigationists may require. Complainant also asks that the Railroad Commission make rules and regulations governing the present and future use of water under this system.

The answer, in effect, alleges that defendant is supplying water to individuals in El Dorado County, in and about the city of Placerville, but to the extent only that the same were supplied by Placerville Gold Mining Company; that said water system is located in the counties of Alpine, Amador and El Dorado; that in purchasing said water system from Placerville Gold Mining Company defendant assumed all of the duties and obligations of said Placerville Gold Mining Company to supply water for irrigation purposes in the county of El Dorado; that it is necessary to secure a complete adjudication of the rights of defendant's consumers of water and of defendant; that it purchased said water system for the purpose of increasing the development and storage of water in connection with the system and of using said increased water and storage solely for the purpose of generating electricity and thereafter for resale; that for many years defendant and its predecessors have maintained and now maintain on the American River, near Placerville, a power plant for the generation of electric energy by the use of water power; that large quantities of electric energy generated in said power house have been and are now being supplied to agricultural communities below said power house for the purpose of operating pumps and irrigation systems as well as for domestic purposes; that the use of electric energy for agricultural purposes is rapidly increasing and that the capacity of defendant's present hydroelectric plant is not sufficient to take care of the requirements of defendant's Stockton division; that defendant has at all times

refused to extend the use of water from this system beyond the limits existing at the time of its said purchase and that it desires to use all water now developed or to be developed in this system, other than to the extent heretofore utilized by existing consumers, for the purpose of developing electric energy and of thereafter selling the same for irrigation below its power house; that it is desirable and necessary, not merely from the point of view of the complainant but also from the point of view of the defendant, that the Railroad Commission determine the rights of the complainant and its members to the use of the water developed and to be developed in said system; that the use of the water from this system has been uneconomical and that large quantities of said water have been wasted; and that the rates paid are wholly inadequate and are sufficient only to pay the operating expenses of the system. Defendant asks that the Railroad Commission determine the extent to which said water system is obligated to supply water to residents of El Dorado County for irrigation and other purposes, either now or in the future; that the Railroad Commission make its order fixing the rates, rules and regulations to govern the present and future supply of water by defendant in El Dorado County; and that the Railroad Commission give such further relief as may be meet and proper in the premises.

Defendant thereafter filed an amendment to its answer alleging, in effect, that neither the defendant nor its predecessors in interest have ever dedicated to the public use of irrigation any water developed or to be developed by said system other than such as was supplied to irrigation consumers prior to the purchase of said water system by defendant; that defendant has prepared a plan for additional storage development of water under this system by impounding the flood waters and that it has publicly announced its intention to use the water which it may be able to thus impound, as well as the water already developed and not heretofore dedicated to public use, for the sole purpose of developing electric energy, first, through the use of a new power house to be constructed by the defendant on the South Fork of the American River, second, through the use of the same water in the present power house of defendant, situated on the same stream at a point below the proposed new power house, near the city of Placerville; and that the making and enforcement by the Railroad Commission of any order compelling defendant to supply to any member of complainant association any water so to be developed by the defendant or hitherto developed and not dedicated to public use, except such as may be used below said two power houses, will violate rights of defendant under the Constitution of the United States and the Constitution of California.

The pleadings filed herein contain other allegations to which it is not necessary here to refer.

Public hearings herein were held in Placerville on December 4 and 5, 1917, and in San Francisco on January 21 and 22, 1918. Notice of the hearing was mailed by defendant, as directed by the Railroad Commission, to each of defendant's consumers. Briefs have been filed and the case is now ready for decision.

The various documents which were to be filed subsequent to the hearings herein have all been filed and given exhibit numbers as indicated at the hearings. In addition thereto, the following two documents, in accordance with stipulation of the parties, have been filed and given the exhibit numbers indicated:

Railroad Commission's Exhibit No. 2—Report on capacity of defendant's main canal from its intake to Fourteen-Mile House tunnel.

Defendant's Exhibit No. 47—Letters from Chickering & Gregory to Railroad Commission, dated April 26, 1918, and April 30, 1918, with enclosures, commenting on Railroad Commission's Exhibit No. 2.

The principal issue in this proceeding is the right of the respective parties to the water developed and to be developed in this system. To this issue I shall first address myself. I shall then consider the second issue presented, which is the question of the rates, rules and regulations for the sale of water under this system.

I shall consider the subject matter of this opinion under the following heads:

1. History of water system.
2. Description of water system.
3. Appropriations of water.
4. Use of water.
5. Defendant's hydroelectric plans.
6. Cosumnes water supply.
7. Right of parties.
8. Rates, rules and regulations.

#### 1. History of water system.

The water system herein under consideration was constructed and for many years operated by El Dorado Water and Deep Gravel Mining Company, a California corporation, incorporated in September, 1873. This corporation succeeded to the rights of J. Kirk and F. A. Bishop (*Osgood vs. El Dorado Water and Deep Gravel Mining Company*, 56 Cal. 571).

The construction of the Main canal, also known as El Dorado canal, was begun in 1873 and completed in 1876.

The system was constructed primarily for hydraulic mining purposes. From the first, water has also been continuously sold for domestic use in the city of Placerville.

With the decadence of hydraulic mining in this district, the system was more and more used for irrigation, until in 1916 and 1917 this use



became in quantity of water used the predominating use under this system. There has also been a gradual increase in domestic use, until in 1916 and 1917 the water used for domestic purposes in the city of Placerville alone, not considering the water used for domestic purposes outside of the city of Placerville, amounted to an amount substantially one-half the water used for mining and between one-quarter and one-sixth of the water used for irrigation. The most recent additional use of water under this system has been for the generation of electric energy, at the times and under the circumstances hereinafter indicated.

By deed dated June 15, 1907, this water system was conveyed by El Dorado Water and Deep Gravel Mining Company to C. N. Beal, who gave his promissory notes, secured by a purchase money mortgage.

By deed dated February 3, 1908, Mr. Beal conveyed the property to Sierra Water Supply Company.

On July 3, 1911, El Dorado Water and Deep Gravel Mining Company assigned the indebtedness and the mortgage to secure the same to Placerville Gold Mining Company.

On March 12, 1912, Sierra Water Supply Company deeded the property to San Francisco-Oakland Terminal Power Company.

On June 14, 1912, Placerville Gold Mining Company filed suit to foreclose the mortgage.

On February 23, 1915, a sheriff's certificate of sale issued to Placerville Gold Mining Company, the purchaser at the foreclosure sale.

On February 24, 1916, a sheriff's deed to the property was delivered to Placerville Gold Mining Company.

Finally, in the month of December, 1916, the property was conveyed by Placerville Gold Mining Company and C. N. Beal to Western States Gas and Electric Company, the sale by Placerville Gold Mining Company having theretofore been authorized by the Railroad Commission in Decision No. 3943, made on December 21, 1916, in Application No. 2657, *Placerville Gold Mining Company* (Vol. 12, Opinions and Orders of the Railroad Commission of California, p. 84).

## 2. Description of water system.

The water system herein under consideration consists, in general, of storage lakes in the counties of Alpine, Amador and El Dorado; the Main canal, extending from the point of diversion on the South Fork of the American River just below the junction of that river with the Silver Fork, a distance of approximately 41 miles, to Smith's Flat; and a number of distributing ditches and small reservoirs connected therewith.

The storage lakes which are tributary to this system and which have heretofore been used in connection therewith are Echo Lake and Medley Lake, in El Dorado County, and Silver Lake, in Amador County. Many years before defendant acquired the system, small dams were constructed

to impound water in each of these lakes. At the time of defendant's purchase, the developed capacity of these storage lakes was as follows:

Silver Lake.....	5,400 acre-feet
Echo Lake.....	1,910 acre-feet
Medley Lake.....	300-400 acre-feet

At the time of defendant's purchase, no dam had been constructed to store water in the Twin Lakes, in Alpine County.

In addition to the water stored in said storage lakes, defendant and its predecessors have from the beginning availed themselves of the natural flow of the South Fork of the American River at the point of intake of the Main canal. Defendant's Exhibit No. 37 shows the discharge of the South Fork of the American River and of the Silver Fork near the junction of the two streams from March, 1906, to December, 1907, inclusive. The addition of these discharges gives the total discharge of the South Fork of the American River at the intake of the Main canal. The discharges given in Exhibit No. 37 are as follows:

*Discharge of South Fork of American River and of Silver Fork Near Junction of the Two Streams.*

Year and month	Discharge of South Fork, 80.7 square miles drainage (acre-feet)	Discharge of Silver Fork, .114 square mile drainage (acre-feet)	Total discharge at intake of main canal (acre-feet)
1906- March .....	412,870	10,630	23,500
April .....	412,500	*35,700	48,200
May .....	38,600	73,900	112,500
June .....	74,400	95,400	169,800
July .....	47,600	43,000	90,600
August .....	11,030	10,470	21,500
September .....	2,080	3,920	6,000
October .....	1,110	1,030	2,140
November .....	1,310	2,130	3,440
December .....	2,580	3,620	6,200
1907-January .....	2,910	4,790	7,730
February .....	11,370	16,230	27,600
March .....	18,450	43,350	61,800
April .....	31,200	63,900	95,100
May .....	53,400	81,300	134,700
June .....	74,700	71,300	146,000
July .....	59,100	31,000	93,100
August .....	11,400	10,200	21,600
September .....	2,490	3,930	6,420
October .....	2,020	3,440	5,460
November .....	1,370	4,090	5,460
December .....	41,070	42,020	3,090

\*Probably much too high, as this quantity was obtained by deducting estimated discharge of South Fork from measured flow below junction.

†Flow estimated, not measured. Estimate for April is probably much too low.

‡Fifteen days only.

The foregoing figures undoubtedly include such waters as may have been let down from storage during the later months of the year.

In defendant's Exhibit No. 39, Mr. Edwin Duryea refers to the years 1905-6 and 1906-7 as having been very wet years and draws attention

to the fact that the total stream flow at the intake of the Main canal was 46 times the 7,560 acre-feet of stored waters from May 16 to October 15, 1906, and 44 times the stored waters for the period from May 16 to August 31, 1907. Mr. Duryea states that in normal years the stream flow at the intake of the Main canal may be taken as approximately one-half the stream flow in the years 1906 and 1907 and that in a few dry years the total flow may not be more than that corresponding to the released stored waters.

Mr. Duryea draws the conclusion that except in a few of the dry years, the water supply for this system is limited not by the volume of water stored in the storage lakes nor by the natural flow of the South Fork of the American River at the intake of the Main canal, but by the flowage capacity of the Main canal itself. It appears clearly that under the system as heretofore developed, the limiting factor in the system's capacity has been the capacity of the Main canal.

In addition to the water rights under this system growing out of the storage of water in the storage lakes and the diversion of this water, when released, and of the natural flow of the South Fork of the American River and tributary streams at the point of intake of the Main canal, this system owns further water rights due to the fact that water from quite a number of creeks and small feeders has heretofore been taken into the Main canal at points below the intake. The capacity of the various flumes in connection with these creeks and feeders, as well as the amount of water which was being discharged therefrom into the Main canal during specified days in the month of May, 1912, appear in letter dated September 11, 1916, from Mr. H. L. Haehl, a member of the engineering firm of Duryea, Haehl & Gilman, to Mr. George H. Whipple, heretofore a member of the firm of Chickering & Gregory, which letter is attached as Exhibit "B" to the report on the title of the property of this system, made by Chickering & Gregory on November 14, 1916, and by stipulation of the parties considered in evidence in this proceeding. The same data appears in defendant's Exhibit No. 45, being the report of Hydraulic Engineer J. W. Link. It appears from Mr. Haehl's letter that the amount of water which was being discharged from these creeks and feeders into the Main canal in May, 1912, varied from a fraction of a cubic foot per second to a discharge of 10.76 cubic feet per second from Plum Creek and 45 cubic feet per second from Alder Creek.

While the discharge from these various creeks and feeders during other portions of the year does not appear in the record, Mr. Haehl reports that it is frequently the practice to take all the water required by the Main canal from these creeks and feeders and to divert no water at all at the head works. He reports further that these feeders, during a portion of the year, are able to supply the entire amount of water

required and that during a somewhat longer period of the year they are able to supply a material portion of the water taken into the canal.

As appears from Mr. Edwin Duryea's report in defendant's Exhibit No. 39, and other testimony, the natural stream flow of the South Fork of the American River and its tributaries at the intake of the Main canal has usually been sufficient, without reference to any other water, to fill the canal until toward the end of July. Thereafter, until the end of the irrigating season (about October 15) the decreasing natural stream flow has been supplemented by the release of the stored waters from Silver and Echo lakes. The storage in Medley Lake has been very small. The waters from Silver and Echo lakes have been sufficient, according to Mr. Duryea, to supply 65 cubic feet of water per second, without any aid from natural stream flow, at the intake of the Main canal, for about 56 days and can be depended upon to supplement the waning natural stream flow during the latter half of July, during August and September, and during the first half of October. Attention should here be directed, however, to the fact that during the months of October and November in at least the years 1913 to 1915, inclusive, with the exception of November, 1914, large quantities of water were sold from this system to Western States Gas and Electric Company. I assume that this water was in part stored water. Hence, it by no means follows that under this system as heretofore developed, the natural stream flow, augmented by stored waters, will normally suffice to yield water only until October 15.

The Main canal of this system consists in part of ditch and in part of flume and extends from the head works in section 19, township 11 north, range 15 east, at a point a short distance west of Slippery Ford, a distance of approximately 41 miles, to a point in section 11, township 10 north, range 11 east, near a place now or formerly known as the village of Smith's Flat.

As already indicated, this canal, together with its appurtenances, has been used continuously since its completion in 1876 for public use. For many years prior to the acquisition of this system by the defendant, it was devoted to the sale of water for the public uses of mining, domestic and irrigation. The main canal has never been used for the sale of water for the generation of electricity. Such water as has been sold for this purpose, has flowed in the South Fork of the American River, past the intake of the Main canal, being thereafter diverted for use in the power house of American Electric Company, located below Placerville.

The testimony shows that the Main canal was designed and constructed to a capacity of approximately 100 cubic feet per second, or 4,000 miner's inches. The record shows a number of measurements of water flowing into the Main canal at different points and at different times.

In the letter of Mr. Haehl dated September 11, 1916, hereinbefore referred to, Mr. Haehl reports the following measurements of water taken in at the main head works and also of the water flowing in other portions of the Main canal at the times indicated:

September 20, 1904 - At Intake	74.5	cubic feet per second
September 21, 1904 - In Plum Creek	59.8	cubic feet per second
September 22, 1904 - In Plum Creek	54	cubic feet per second
March 1, 1906 - In Alder Creek	51.67	cubic feet per second
April 21, 1906 - In Alder Creek	42.9	cubic feet per second
May 11, 1906 - In Alder Creek	39.6	cubic feet per second
August 16, 1906 - At Intake	88.2	cubic feet per second
September 7, 1906 - In Alder Creek	55.95	cubic feet per second
February 1, 1917, to		
March 13, 1907 - At Intake	41	cubic feet per second
May 26, 1907 - At Intake	48	cubic feet per second
June 1907 - At Intake	45.8	cubic feet per second
July 1907 - At Intake	53	cubic feet per second
August 1907 - At Intake	55	cubic feet per second
May 11, 1912 - At Intake	74	cubic feet per second
June 1, 1912 - At Intake	84	cubic feet per second
June 19, 1912 - At Intake	84	cubic feet per second
October 9, 1915 - At intake	110	cubic feet per second

Mr. Haehl reports that whether the full amounts of water taken into the Main canal at the intake were carried the entire length of the canal is not shown by the records. He states that there are times when some of the water is returned to the stream, when it is not required for use. Mr. Haehl does not indicate that the measurements taken just below the intake represent the capacity merely of a small portion of the Main canal near the head works and that the water taken into the Main canal is shortly thereafter returned to the river. I desire to draw particular attention to the fact that on August 16, 1906, the Main canal actually carried 88.2 cubic feet of water per second below the intake and that on October 9, 1915, the canal at this point carried 110 cubic feet per second.

Plum Creek, referred to in the foregoing table, is located about half way between the intake of the Main canal and the Fourteen-Mile House tunnel, hereinafter referred to.

Mr. C. E. Gilman, also a member of the firm of Duryea, Haehl & Gilman, presented herein a record of the measurement of the Main canal on September 11, 12 and 13, 1917. He reported that on these days the Main canal carried 64.48 cubic feet of water per second at the head works and 47.37 cubic feet of water per second at the Fourteen-Mile House tunnel, a distance of approximately 20 miles below the intake. He also testified that some of the sand traps were out of adjustment and some of the flume sides were a little low and that 4.02 cubic feet of water per second could have been saved "with a little repair work." If this had been done, 51.39 cubic feet of water per second would have

been delivered at the Fourteen-Mile House tunnel, making a loss in transmission of 13.09 cubic feet per second, which loss amounts to 20 per cent in 20 miles, or one per cent per mile. Mr. Gilman further testified that at the time the gaugings were made, approximately 100 cubic feet of water per second was turned into the Main canal but that approximately 36 cubic feet per second were turned out again just below the head works for the reason that it was not considered safe to carry the entire flow down the Main canal past the first point of low berm.

On April 5 and 6, 1918, Mr. R. W. Hawley, the Railroad Commission's hydraulic engineer, in company with representatives of the parties herein, made measurements on the Main canal to ascertain its capacity. Mr. Hawley, in Railroad Commission's Exhibit No. 2, reports his conclusions as follows:

"It is my belief that not over \$10,000.00 need be expended to put the ditch in such condition that it would carry 100 cubic feet per second as safely as it recently carried 64 cubic feet per second at the head of the canal. This expenditure should cover both the work of preparation and the employment of additional ditch tenders during the time the water is being gradually raised over the new area of bank. After this amount of water is in the canal, it is probable that at least one additional ditch tender should be regularly employed. A part of the flume section will necessarily have the sides increased by the addition of a board six inches wide. This I do not consider an expense that should properly be chargeable to preparation of the canal for the carrying of the additional head but rather a completion of construction work."

In defendant's Exhibit No. 47, defendant takes issue with Mr. Hawley's conclusion that an expenditure of \$10,000.00 would be sufficient to bring the capacity of the Main canal back to the original capacity of 100 cubic feet of water per second. It is not necessary herein to pass upon the exact amount of money which would be required for this purpose.

The testimony clearly shows that there is considerable deferred maintenance on the Main canal and that the amount of water which can at the present time be safely carried is considerably less than would be the case if the canal had been kept in condition of proper repair. Mr. Gilman, after testifying that the original capacity of the Main canal was approximately 100 second-feet, stated that the berm has been allowed to run down, that cattle have run on the berm, that there has been settlement along the canal, and that the flumes are in very poor condition. Mr. Gilman further testified that in order to bring the canal back to its original carrying capacity, it will be necessary to clear out the sand and silt at points, and at other points to reconstruct flumes and trestles and to put an additional board on the flume. He

also testified that the reason why the canal is not up to capacity is because it has not been properly maintained.

Mr. Samuel Kahn, defendant's general manager, testified that in 1917 approximately 40/64 of the capacity of the Main canal was necessary to serve the consumers under the system and that if irrigation increases as estimated by complainant, the total capacity of the Main canal in its present condition will be utilized in 1922. Mr. Kahn's testimony in this regard, as appears in defendant's Exhibit No. 35, is as follows:

"The results for 1917 indicate that it required on an average peak 40.7 second feet to supply the consumers. The capacity of the ditch, according to measurements made by Mr. Gilman, of Duryea, Haehl & Gilman, was found to be 64.7 feet; therefore, in round numbers, 40/64 of the ditch capacity was necessary to supply the consumers in 1917. To make the same estimate for the year 1922 we used quantities of water to be delivered to consumers from information given in the questionnaire compiled by the El Dorado County Water Users' Association, with the exception of that water used by the Placerville Water Company, domestic use of our own system and special uses. It will be noted that the mining water has been eliminated altogether. The results for 1922 show that it will require 60.2 second-feet to supply the various users, which for all practical purposes is the total capacity of the main ditch."

The total mileage of the Main canal and of the various distributing canals under this system is reported to be approximately 200 miles. The principal canals, other than the Main canal, are shown by the report of Chickering & Gregory to be: South Fork canal, Iowa canal, Webber canal, Higgins ditch, Poverty Point ditch and South Fork extension, with their respective tributaries.

The report of Chickering & Gregory also refers to a number of small reservoirs, including Nigger Hill reservoir, Placerville reservoir, Webber reservoir and El Dorado reservoir.

### 3. Appropriations of water.

The report of Chickering & Gregory shows notices of appropriation of water for distribution through this water system as follows:

#### (1) *South Fork of American River.*

Nine appropriations, of which two are for 8,000 miner's inches each, four for 10,000 miner's inches each, one for 20,000 miner's inches, and two for 30,000 miner's inches each. A number of the larger appropriations specifically include all the waters of the tributaries of the South Fork of the American River.

#### (2) *Silver Lake.*

Two appropriations of 4,000 miner's inches each.

(3) *Audrain Lake.*

One appropriation of 4,000 miner's inches.

(4) *Medley Lake.*

One appropriation of 12,000 miner's inches and one appropriation of 10,000 miner's inches.

(5) *Lake Henry or Lake George.*

One appropriation of 10,000 miner's inches.

(6) *Echo Lake.*

One appropriation of 10,000 miner's inches and one appropriation of 5,000 miner's inches.

(7) *Alder Creek.*

One appropriation of 10,000 miner's inches.

(8) *Alpine Creek (including Twin Lakes).*

One appropriation of 10,000 miner's inches.

(9) *Mill Creek.*

One appropriation of 500 miner's inches.

(10) *Plum Creek.*

One appropriation of 5,000 miner's inches.

(11) *Silver Creek.*

Three appropriations of 10,000 miner's inches each and one appropriation of 4,000 miner's inches.

(12) *Wolf Creek.*

One appropriation of 500 miner's inches.

(13) *Brush Canyon.*

One appropriation of 1,000 miner's inches.

(14) *Long Canyon.*

One appropriation of 1,000 miner's inches.

(15) *Big Iowa Canyon.*

One appropriation of 1,000 miner's inches.

(16) *Little Iowa Canyon.*

One appropriation of 1,000 miner's inches.

The report of Chickering & Gregory also shows notices of appropriation of the bed and banks of streams, including lakes and ponds in connection therewith, as follows:

	Date of notice of appropriation
Silver Lake .....	May 16 and May 22, 1873
Audrain Lake .....	May 17, 1873
Echo Lake .....	May 23, 1873
Plum Creek .....	Sept. 28, 1874
Medley Lake .....	Oct. 25, 1875
Twin Lakes .....	Nov. 23, 1875
South Fork of American River.....	Oct. 22, 1876



The notices of appropriation, other than those for reservoirs, seem to have specified that the water was to be used for mining, manufacturing, agricultural, and other purposes.

The reservoir appropriations specify that the water is to be used for mining, manufacturing, irrigating, domestic and other purposes, and most of these appropriations state that the water is to be used in connection with the Main Trunk canal of El Dorado Water and Deep Gravel Mining Company.

The exact amount of water developed and the amount of water used under this system are, of course, questions of fact which can not be determined from the notices of appropriation. I have heretofore referred to the amount of water developed under this system. I shall now refer to the amount of water heretofore used thereunder, in so far as shown by the record.

#### 4. Use of water.

Water has been used from this system primarily for (a) mining, (b) domestic, (c) irrigation and (d) generation of electricity.

##### (a) Mining.

Although the use of water from this system for hydraulic mining has been discontinued, water is still used for propelling machinery in a number of mines in the district.

Defendant's Exhibit No. 31 shows water sold for mining during each month of the year from 1912 to 1916, inclusive, for both operative and nonoperative properties, in miner's inches for 24 hours, as follows:

Month	1912	1913	1914	1915	1916	Total
January .....	*	1,041	6,322	3,486	1,036	11,885
February .....	*	156	5,591	3,902	1,914	11,563
March .....	*	6,122	6,747	4,962	2,422	20,253
April .....	1,972	9,166	5,516	4,752	2,366	23,772
May .....	6,748	8,749	6,219	4,492	2,284	28,492
June .....	7,213	8,580	6,219	5,097	2,154	29,263
July .....	7,041	8,133	6,064	3,047	2,163	26,448
August .....	7,608	8,589	3,561	1,959	2,086	23,803
September .....	6,833	7,336	6,055	2,223	2,346	24,793
October .....	6,773	7,333	3,312	2,181	2,215	21,814
November .....	6,915	8,358	1,848	2,179	1,635	20,935
December .....	8,092	8,291	3,325	2,074	1,275	23,057
Totals .....	59,195	81,851	60,779	40,354	23,896	266,078
Less operative .....	51,870	77,909	53,094	38,235	22,702	243,900
Nonoperative .....	7,325	3,855	7,685	2,119	1,194	22,178

Exhibit No. 32 shows the water sold to mines in 1917, in miner's inches for 24 hours, as follows:

Month	Miner's Inches for 24 hours
January .....	1,219
February .....	195
March .....	2,376
April .....	3,048
May .....	2,135
June .....	1,864
July .....	1,629
August .....	1,581
September .....	1,224
October .....	901
November .....	1,032
December .....	1,179
Total .....	18,383

From the foregoing tables it will be observed that the water sold for mining purposes has gradually decreased from 81,854 miner's inches per 24 hours in 1913 to 18,383 miner's inches in 1917.

Defendant's Exhibit No. 34 shows that in 1916 the only mines which were still purchasing water from this system were Guilford Gold Mining Company, Rising Hope Mine, Pyramid Mine, Live Oak Mine and Stricker Mine. The Pacific Mine, which theretofore was the largest purchaser of water for mining purposes, bought no water in 1916. The record does not show the situation with reference to this mine in 1917.

Attention should also be directed to the fact that the use of water for mining under this system is continuous throughout the year and that with the exception of the relatively small use in January and February of each year, the use during the various months does not change very greatly.

In defendant's Exhibit No. 33, defendant reports that 80 miner's inches of water are turned into Webber ditch to serve the Rising Hope Mine and that on the basis of nine months use in 1917, the amount of water actually used by the mine is only 28.5 miner's inches per day. Defendant reports that if this mine should convert its power from water to electricity purchased from defendant, its annual bill, on the assumptions stated in the report, would be \$1,643.95. Estimating the water at the present mining rate of 15 cents per miner's inch per day, the annual bill is \$1,560.00. Defendant draws attention to the fact that if the rate for water sold to mines is materially raised, operation of this mine by electricity will be decidedly cheaper than operation by water. If this situation applies to the other mines which are now served with water by defendant, we may assume that the remaining water now

sold for mining use will shortly be released and will be available for other public uses.

(b) *Domestic.*

As hereinbefore indicated, water has been sold by this system since 1873 for domestic use in a portion of the city of Placerville under contract with Francis A. Bishop, which contract was thereafter assigned to Placerville Water Works.

Defendant's Exhibits Nos. 31 and 32 show the water sold during each month in 1912 to 1917, inclusive, in miner's inches for 24 hours, to Placerville Water Works, as follows:

Month	1912	1913	1914	1915	1916	1917
January -----	661	704	532	590	558	562
February -----	573	536	572	502	623	604
March -----	544	547	617	650	614	536
April -----	641	560	571	597	694	620
May -----	678	735	794	572	848	779
June -----	935	984	998	1,172	1,183	1,144
July -----	1,168	1,189	1,372	1,435	1,388	1,340
August -----	1,173	1,250	1,323	1,392	1,350	1,425
September -----	781	1,015	911	1,125	1,040	1,115
October -----	688	770	710	911	612	814
November -----	519	542	590	607	620	576
December -----	532	534	574	606	628	480
Totals -----	8,893	9,366	9,564	10,219	10,158	9,995

The water thus sold to Placerville Water Works was, in turn, sold by that company to its consumers in the city of Placerville.

The testimony shows that defendant itself directly serves with domestic water consumers in the city of Placerville who are located above the distributing system of Placerville Water Works and also in a portion of the lower end of the city. Mr. H. R. Bennett, defendant's local manager in Placerville, estimates that defendant supplies directly approximately one-fourth of the domestic consumers in Placerville.

Defendant also supplies domestic water at flat rates to a large number of consumers located outside of the city of Placerville. In Exhibit No. 31, defendant reports that in 1916 it had 211 flat rate domestic consumers. Defendant's Exhibit No. 36 gives the names of the domestic consumers and the rates charged, both for winter and summer, but the record does not show the amount of water sold to these consumers for domestic purposes.

Defendant also reports in Exhibits Nos. 31 and 32 the sale of water to the El Dorado County Hospital for both domestic and irrigation uses. The quantity of water sold seems to be increasing, year by year, amounting in 1917 to 718 miner's inches per day for domestic uses and 142 miner's inches for irrigation.

Defendant's Exhibit No. 31 also shows that water is sold by defendant directly to the city of Placerville for sprinkling, rock crushing and sewer flushing but the record does not show the amount of water thus sold.

(c) *Irrigation.*

In 1917, water was sold from this system to approximately 300 irrigators.

Complainant reports that 3,148.5 acres of land were irrigated under this system during 1917.

Defendant reports in its Exhibit No. 2 that 3,409.52 acres were irrigated in 1917 and that during this year, 48,609.5 miner's inch days were purchased for this purpose. Attention should be directed to the fact that during the last weeks in July, 1917, no water was delivered for irrigation by reason of a break in defendant's Main canal.

Defendant's Exhibits Nos. 31 and 32 show water sold for irrigation from 1912 to 1917, inclusive, in miner's inches for 24 hours, as follows:

1912	-----	30,328
1913	-----	35,043
1914	-----	28,331
1915	-----	35,962
1916	-----	45,772
1917	-----	60,734

Complainant, in its Exhibits Nos. 1 and 4 shows the acreage irrigated in 1917, the acreage which the persons interviewed stated they would irrigate in 1918 to 1922, inclusive, the ultimate acreage capable of irrigation and the total acreage owned by the persons interviewed, as follows:

1917	-----	3,148	acres irrigated
1918	-----	3,914 $\frac{1}{4}$	acres estimated to be irrigated
1919	-----	4,296 $\frac{1}{4}$	acres estimated to be irrigated
1920	-----	4,858 $\frac{3}{4}$	acres estimated to be irrigated
1921	-----	5,118 $\frac{1}{4}$	acres estimated to be irrigated
1922	-----	5,355 $\frac{1}{4}$	acres estimated to be irrigated

Ultimate acreage capable of being irrigated, 15,643 $\frac{1}{4}$ .

Acreage owned by persons interviewed, 26,039 $\frac{1}{4}$ .

On the assumption that one miner's inch continuous flow will irrigate five acres, complainant reports that the following quantities of water will be necessary at the land for the irrigation of the acreage reported in its Exhibits Nos. 1 and 4 as irrigated and to be irrigated:

Year	Miner's inch	Second feet
1917	629.6	15.74
1918	782.95	19.57
1919	859.25	21.48
1920	971.75	24.29
1921	1,023.75	25.59
1922	1,071.15	26.77
Ultimate	3,128.70	78.22

While there is considerable conflict in the testimony with reference to the number of acres irrigated by one miner's inch of water under this system, I am satisfied that the duty of water is more nearly between six and seven acres than five acres. A corresponding change must accordingly be made in the foregoing figures.

The principal crop under this system is pears. About 50 per cent of the average irrigated is planted to this crop, the other 50 per cent being planted principally to peaches, plums and potatoes. The testimony shows that pears require more water than other varieties of deciduous fruit produced under this system and also that the amount of water required by pear trees is substantially greater when the trees have matured than when they are young.

The testimony shows that the irrigation season under this system extends about 150 days, from approximately May 15 to October 15.

Defendant in its Exhibit No. 30 reports that in 1917, the average demand on the system for irrigation was 400 miner's inches per 24 hours and that the average maximum peak was 700 miner's inches.

*(d) Hydroelectric.*

During the last 12 years, except 1916, water was permitted to run past the intake of the Main canal down the river for use in the power house of the American River Electric Company, located below Placerville and now owned by the defendant. The only record of this use contained in the testimony herein appears in defendant's Exhibit No. 31, which reports the use for 1913, 1914 and 1915 to have been, in miner's inches for 24 hours, as follows:

Month	1913	1914	1915	Total
January			1,375	1,375
October	30,000	3,500	5,600	39,100
November	7,000		4,850	11,850
December				
Totals	37,000	3,500	11,825	52,325

The foregoing table shows that the water was used only in the months of October, November and January, being thus supplemental to the irrigation use.

No water was sold for hydroelectric purposes in 1916 and the record does not show what amount, if any, was used by defendant for this purpose in 1917.

The following table, taken from defendant's Exhibits Nos. 31 and 32, shows the quantity of water sold, in miner's inches per 24 hours, from

1912 to 1917, inclusive, for irrigation, Placerville Water Works, mining and hydroelectric uses:

Service	1912	1913	1914	1915	1916	1917
Irrigation .....	30,328	35,013	28,331	35,962	45,772	*60,734
Placerville Water Works.....	8,893	9,366	9,564	10,219	10,158	9,995
Mining .....	59,195	81,854	60,779	40,354	23,896	18,383
W. S. G. and E. Co.....		37,000	3,500	11,825	-----	†
Totals .....	98,416	163,263	102,174	98,360	79,826	89,112

\*To December 24, 1917.

†Not reported.

##### 5. Defendant's hydroelectric plans.

The object of defendant in purchasing this system is stated on page 4 of its brief as follows:

"The object of defendant in purchasing this system was to develop an extensive hydroelectric plant, using the electricity produced, in the territory served with electricity by defendant in the counties of El Dorado, Sacramento, Calaveras, Amador and San Joaquin, including the city of Stockton and many other smaller cities, and a large and intensively cultivated agricultural community in which electricity is used for irrigation pumping to a great and constantly increasing extent. Defendant's own present hydroelectric plant, situated near Placerville, and which has been operating for many years past, is absolutely inadequate to supply defendant's requirements, and defendant has been constantly obliged, and is still obliged, to purchase large quantities of electricity from other electric utilities and to develop by manufacture through the use of steam additional amounts itself. The increase in the price of oil, it being almost doubled within the past year or two, has brought home with peculiar force the absolute necessity of increasing the use of water in the development of electricity as far as is possible, and thereby not only to save money in the saving of oil, but to extend as far as possible the time when the limited oil resources of the state will be exhausted. Defendant proposes to use the water from this system, and that which can be developed and added thereto, not only for a new power house on the South Fork of the American River, but a second time in its present power house, the output of which can be greatly increased through the additional water provided."

As bearing on the demand for electric energy from this system for the purpose of pumping water for irrigation, defendant filed its Exhibit No. 28, showing that its connected load of agricultural power has increased from 582.5 horsepower on July 31, 1911, to 7,863 horsepower on September 30, 1917. The larger portion of this power is used in the vicinity of Lodi and Florin, in San Joaquin and Sacramento counties.

Defendant's plan contemplates the construction of new storage dams and increases in the size of existing storage dams in the upper portions

of its system, the enlargement of the Main canal from its intake to the Fourteen-Mile House tunnel and the construction of pipe line, forebay, penstock, power house and transmission lines.

Referring first to increases in storage, defendant's plans call for a development of additional storage in the lakes under this system so as to insure a continuous flow of 200 cubic feet of water per second at the head of defendant's proposed pipe line at the Fourteen-Mile House tunnel. As the natural flow of the river during six months of the year will supply more than this quantity of water, the amount of requisite storage is based on the deficiency between 200 cubic feet of water per second and the natural flow of the stream during the six low months.

In its Exhibit No. 45, defendant reports that the necessary increased storage capacity can be secured by providing for storage at the present-day costs indicated in each of the lakes named, as follows:

	Storage in acre-feet	Present day cost per second-foot of water stored
Silver Lake -----	8,870	\$9 45
Twin Lakes -----	23,350	9 15
Medley Lake -----	9,720	2 93
Echo Lake -----	17,770	5 25
Alder Creek -----	10,980	27 45
	70,690	

The storage given in the foregoing table for Echo and Twin lakes is reported to be exclusive of the storage already developed. Defendant reports that its contemplated work at Echo Lake was stopped by the Reclamation Service.

The cost of enlarging the Main canal so as to deliver 200 cubic feet of water per second at the Fourteen-Mile House tunnel is estimated by Mr. Duryea at \$532,000.00, without overhead, or \$617,120.00 assuming an overhead of 16 per cent.

Referring to the enlargement of the Main canal and the construction of the proposed new power plant, defendant reports in its Exhibit No. 45 as follows:

"The power project contemplates the enlargement of the El Dorado ditch for a distance of approximately 24½ to 25 miles so as to carry the water proposed to be used. At the lower end of this enlarged section and near the Fourteen-Mile House tunnel, it is proposed to take water out of the ditch through a wooden stave pipe, approximately 7 feet in diameter, for about two miles to a forebay. This 7-foot pipe would have a capacity of 200 second-feet. The forebay is planned to be located about 2,400 feet from the steep drop to the power house. The penstocks leading

from the forebay to the power house would consist of wooden stave pipe for about 2,400 feet from the forebay and steel pipe from this point to the power house. The total gross head obtainable is somewhat more than 1,900 feet, giving a net working head at the wheels of 1,700 feet or more. On the basis of a 1,700-foot net head, each 5,000 brake horsepower will require about 32 second-feet of water. The plan, so far as perfected, contemplates an initial development of two 5,000 brake horsepower units. The penstock for this installation would consist of 42-inch wooden stave pipe at the upper end and steel pipe reducing in size from 42 inches to 20 inches, the lower end of the line dividing into two pipes, each of which would supply one of the generating units.

"It is altogether probable that when additional installation is required, the growth of the market and the general conditions may make it desirable to increase the size of the future units to 10,000 horsepower, and it is the intention to so plan the power house that 10,000 horsepower or even larger units can be installed, if desired, and the sizes of the future penstocks would be arranged to accommodate the capacity of the units selected.

"On the basis of 200 second-feet continuous discharge and the 1,700-foot net head, the total capacity of the plant on the 100 per cent load factor basis would be 30,000 horsepower."

Defendant presents an estimate of the cost of the proposed work as follows:

Enlarging Main canal .....	\$617,120.00
Power project .....	984,163.00
Transmission line .....	105,833.00
Total .....	\$1,707,116.00

I desire to direct attention particularly to the fact that defendant's plans assume its ability to utilize for power development the entire 200 cubic feet of water per second which it contemplates bringing to the head of its pipe line at the Fourteen-Mile House tunnel. In order to take care of the requirements of defendant's domestic, irrigation and other consumers, it will be necessary either to utilize a portion of said 200 cubic feet of water per second or to increase the assumed storage and the assumed size of the Main canal so as to have available for power development at the Fourteen-Mile House tunnel 200 cubic feet of water per second in addition to the water needed to supply the requirements of defendant's customers.

Defendant reports that during 1917, in pursuance of its plan of hydroelectric development, it constructed a rubble masonry dam and several auxiliary dams at Medley Lake. During the same year, defendant also cleared the site of the proposed dam at Twin Lakes, made the excavation for the core wall and outlet works, placed concrete for the foundation of the outlet culvert and made preparations for continuing the work during the next season. Defendant is also making careful



surveys and estimates in connection with the proposed new power plant and appurtenances.

This commission has heretofore authorized Western States Gas and Electric Company to issue debentures and to use the proceeds thereof in the sum of \$215,000.00 for the purpose of paying the purchase price for this system as taken over from Placerville Gold Mining Company in December, 1916. The company has made no request and this commission has given no authorization for the issue of securities to reimburse defendant for any expenditures subsequently made by it on this system in connection with its proposed hydroelectric development.

Defendant reports that it has filed with the State Water Commission an application for authority to appropriate waters under this system in connection with its proposed hydroelectric development. Defendant filed herein as defendant's Exhibit No. 46, a copy of said application, filed in the office of the State Water Commission on April 26, 1917. This application, however, is for water to be used in the generation of hydroelectric energy in the existing hydroelectric plant formerly owned by American River Electric Company, and does not contemplate the transmission of water through any portion of the Main canal or through any power house in addition to the one formerly owned by the above-named company. The application states that the total amount of power to be developed is only 2,500 theoretical horsepower. The estimated cost of the proposed works is given as \$202,375.43. It is evident that this appropriation is not an appropriation under the plans of defendant as now formulated and presented herein to the Railroad Commission.

Such water from this system as is transmitted through defendant's proposed new power house and through the existing power house below Placerville can not be used for irrigation on the Placerville ridge.

Defendant's new hydroelectric project is proposed at a time when there is urgent need for the development in this state of additional hydroelectric energy and defendant deserves all possible encouragement, consistent with the rights of other people.

#### **6. Cosumnes water supply.**

In order to show that water is available from another source for the domestic and irrigation requirements of the territory here under consideration, defendant presented plans and estimates for bringing into this district from the North Fork of the Cosumnes River, water sufficient to irrigate approximately 30,000 acres of land.

In this connection, defendant presented testimony as to rainfall, run-off and reservoir sites in the watershed of the North Fork of the Cosumnes River and the construction of dams and ditches for the purpose of storing flood waters in this watershed and of transmitting

them to the Placerville Ridge. Defendant reports in this connection that it will be possible in this manner to irrigate all the lands now irrigated from defendant's system below Camino, as well as over 25,000 additional acres of land.

Defendant presented as its Exhibit No. 24, estimates by Mr. C. E. Gilman for the development of Sly Park reservoir, with varying heads of dam and varying capacities of the canal to Camino. Mr. Gilman reports, based on the critical period, 1911 to 1916, that this reservoir will be able to irrigate between 5,335 and 12,750 acres of land, dependent upon the height of the dam and on whether one miner's inch of water, continuous flow, is assumed to irrigate five acres or seven and one-half acres of land and that the cost of constructing the dam and canal will vary from \$35.50 to \$92.50 per acre irrigated, dependent upon the same factors. With the dam constructed to the maximum proposed height of 160 feet. Mr. Gilman reports that the cost of dam and North Fork of the Cosumnes River. Included in defendant's Exhibit that one miner's inch, continuous flow, will irrigate seven and one-half acres of land and \$69.70 on the assumption that it will irrigate only five acres of land.

Defendant also presented testimony with reference to the possibility and cost of developing additional reservoirs in the watershed of the North Fork of the Cosumnes River. Included in Defendant's Exhibit No. 41 is an estimate prepared by Mr. N. B. Ellery of the cost of storage and transmission for an assumed system of 30,000 acres irrigated. Assuming a payment of \$350,000.00 to Diamond Ridge Water Company for its present water system and claimed water rights, Mr. Ellery reports that this cost would be \$40.66 per acre for each of the proposed 30,000 acres. This estimate does not include any item for the distributing system of Western States Gas and Electric Company.

The testimony shows that no borings have been made in connection with proposed dams on the watershed of the North Fork of the Cosumnes River.

As showing the necessity for early consideration of the possibility of securing additional water for use on the Placerville ridge, defendant presented its Exhibit No. 39, in which exhibit Mr. Duryea reports that, on the assumptions therein contained, the ultimate irrigation capacity of the system as at present developed, is 1,530 miner's inches, except in the driest years, and that while in those years during which the natural stream flow is at or above the average, 7,700 acres may be irrigated on the assumption of five acres per miner's inch and 11,500 acres on the assumption of 7.5 acres per miner's inch, there will be years of low stream flow during which the system as at present developed will

not be adequate for more than the acreage now under irrigation, at the rate of five acres per miner's inch, or between 4,000 and 6,000 acres at the rate of 7.5 acres per miner's inch.

Complainant took the position that its members rely on their rights under the existing system and that they are in no way obligated to give consideration to the possibility of securing additional water from another source. Defendant took the position that its obligation is limited to the amount of water actually applied to beneficial use under this system in 1916 and that it is not the duty of the defendant to look around for additional sources of water supply to meet the increasing irrigation requirements. Defendant, however, stated that it had gone to considerable trouble and expense to develop the facts in connection with the possibilities of the North Fork of the Cosumnes River, so that the members of complainant association might have their attention directed to another source from which they might secure necessary additional water. Defendant offered, in case the landowners in this district should proceed promptly with the formation of an irrigation district and the development of water from the North Fork of the Cosumnes River to take care of the increasing requirements of this district pending the completion of the Cosumnes project. This offer was not accepted by the complainant, which took the position that any obligation to develop additional water rests on the defendant and not on the complainant.

I have gone into the matter of the Cosumnes supply at some length, not merely to indicate the position of the parties in connection therewith, but also for the reason that the development of additional water in this territory, whether for irrigation or hydroelectric energy, is very much to be desired and all possibilities for such development are worthy of careful consideration from all parties.

While the record in this case is not such as to enable me to pass definitely on the cost of other details of the Cosumnes project or on the possibility of conflicting claims to the water, the matters presented by the defendant in connection with the system are in sufficient particularity and detail to justify careful further consideration of the project by the interested parties.

#### **7. Rights of parties.**

I come now to the consideration of the rights in the water developed and to be developed in this system.

Complainant's position, as expressed in the concluding paragraph of its opening brief herein, is that

“all the water now developed on this system and hereafter capable of being developed therefrom under the original appropriations has been devoted to the public use of irrigation and domestic purposes within the watershed of the South Fork of the American River.”

Defendant's position, as stated on page 2 of its brief, is that it intends to use, "all water in addition to that previously supplied to irrigation and other consumers, solely for the purpose of developing electricity and for resale below the point of use for this purpose."

Defendant claims the right to refuse to deliver any additional water for public use, other than its own hydroelectric use, and to devote exclusively to the generation of electric energy in its power plants and subsequent sale in other districts lower down not merely the water hereafter to be developed by defendant, but also all water now developed in excess of the amount of water actually applied to beneficial use in 1916. The reference to the water now developed is material for the reason that at the time defendant purchased this system and at the present time there were and are developed therein and in the possession and control of the owner of the system considerable amounts of water in excess of the water actually applied to beneficial use. Defendant further claims that it had the right in 1917, at least several years prior to any possible completion of its new hydroelectric development, to refuse to deliver any additional water for irrigation and domestic purposes.

The correct determination of the proper principles to be applied in resolving these conflicting claims is a matter of profound importance to both parties and deserves the most careful consideration from this commission.

The testimony shows that ever since the completion of the Main canal and the initial operation of the system in 1876, this water system and all waters controlled by it have been and are now devoted to public use. Water has been sold at established rates to whoever desired to buy. While the quantity of water sold for various uses, domestic, mining, irrigation and hydroelectric, has varied from time to time, and while the use for which the largest quantity of water was sold has likewise changed, from time to time, the fact of vital significance is that the uses for which the water from this system have been sold have always been public. In so far as the record herein shows, there has never been any refusal to sell water for any of said public uses to any member of the public in the territory lying under the canals and ditches of this system, except that in 1916, Placerville Gold Mining Company refused to sell any water for hydroelectric uses to Western States Gas and Electric Company. Placerville Gold Mining Company, defendant's predecessor in the ownership and operation of this system, was a public utility and was so represented to this commission at the time when authority was asked for the transfer of its system to the defendant (Vol. 12, Opinions and Orders of the Rail-

road Commission of California, p. 84). The situation is accurately stated by defendant in its brief, at page 17, as follows:

"All of the water controlled by defendant and its predecessors, so far as the evidence in this case shows, has for many years been devoted to public use, namely: irrigation, city of Placerville, mining, and hydroelectric purposes."

It will be noted that defendant's statement of the situation extends to all the water "controlled" by it and its predecessors. I may add that the water sold for hydroelectric purposes was sold only during the last 12 years, excepting 1916, and was delivered almost entirely after the close of the irrigating season.

The "class" to whose use this system and the water controlled thereby were devoted consists of persons living or doing business in that portion of El Dorado County which lies below the canal and ditches of this system.

As already indicated, the testimony shows that the capacity of this system is such as to enable it to supply considerable water in excess of the quantity heretofore actually applied to beneficial use and considerable water has been developed and is now under the control of this system (apart from the 1917 development at Medley Lake) in excess of the amount heretofore applied to beneficial use. Attention has been directed to Mr. Kahn's testimony to the effect that in 1917, only 40/64 of the capacity of the Main canal (the limiting factor under this system) was necessary to supply the needs of the existing consumers and to his further showing that the system as acquired by defendant would be able to meet all additional irrigation requirements, as reported by complainant, up to 1922, on the assumption that the mining use is converted to electricity or ceases.

From these facts and the other facts shown in the record herein, the conclusion follows irresistibly that this system is obligated to sell water, at least to the extent to which it has water developed and under its control, to all who come within the class for whose benefit the public trust was created.

As was said by the Supreme Court of California in *Price vs. Riverside L. & I. Co.*, 56 Cal. 431, 432.

"It is quite certain that defendant can not escape the performance of a public duty which it assumed on its attempted incorporation as a water company by the assertion of a right, as another sort of corporation, to supply all the water to its own uses or to those of its grantees."

Continuing, at page 433, the court says:

"Every corporation deriving its being from the act above cited (Stats. 1862, p. 540) has imposed upon it a public trust—the duty of furnishing water, if water it has, to all those who come within the class or community for whose alleged benefit it has been created."

In *Hildreth vs. Montecito Creek Water Co.*, 139 Cal. 22, the court, at page 30, says:

"The right of an individual to a public use of water is in the nature of a public right possessed by reason of his status as a person of the class for whose benefit the water is appropriated or dedicated. All who enter the class may demand the use of the water, regardless of whether they have previously enjoyed it or not."

Wiel, in paragraph 1280 of his work on Water Rights, third edition, states the rule to be that a public service water company must render service "to the extent of the capacity of its distributing system or plant." See also *Fellows vs. Los Angeles*, 151 Cal. 52; *South Pasadena vs. Pasadena L. & W. Co.*, 152 Cal. 579.

Section 10 of the act of March 12, 1885 (Stats. 1885, p. 95) provides as follows:

"Every person, company, association and corporation, having in any county in the state (other than in any city, city and county or town, therein) appropriated waters for sale, rental or distribution, to the inhabitants of such county, upon demand therefor and tender in money, of such established water rates, shall be obliged to sell, rent or distribute such water to such inhabitants, at the established rates regulated and fixed therefor, as in this act provided, whether so fixed by the board of supervisors, or otherwise, to the extent of the actual supply of such appropriated waters of such person, company, association or corporation, for such purposes."

This section makes it the duty of a water utility to sell water "to the extent of the actual supply" of its water appropriated for public use.

The Railroad Commission has been granted authority to compel a water company to serve additional consumers. Section 5 of the act of April 25, 1913 (Stats. 1913, p. 84), specifically authorizes the commission to require any public utility water company "to allow additional consumers to be served when it shall appear that to supply such additional consumers will not injuriously withdraw the supply wholly or in part from those who theretofore had been supplied by such public utility."

Section 13 (b) of the Public Utilities Act provides as follows:

"Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable."

Section 36 of the Public Utilities Act specifically authorizes the commission to require public utilities to give adequate service and

facilities and to make necessary additions, extensions, repairs, improvements and changes.

It seems entirely clear that the defendant is obligated to continue to sell for public use additional water from its developed supply, at least up to the capacity of its system as now constituted. I shall hereinafter refer for a moment to possible enlargements of that system.

Defendant, however, contends that its obligation to sell water to the public is limited to the precise amount of water which it sold in 1916, that is, to the amount "previously supplied for irrigation and other consumers." If defendant is correct in this contention, it can refuse to supply a single additional drop of water for drinking, or other domestic purposes in the city of Placerville and elsewhere in the county. It can refuse to supply additional water for flushing sewers, or for sprinkling the streets, as the city of Placerville, from time to time, increases in population. It can limit special users, such as the County Hospital, to the amount of water heretofore used. It can refuse to supply the additional water which the young orchards now planted in this district will require, as the trees grow older. It can refuse, as it announces its intention to do, to sell water for the irrigation of a single additional acre of land, even in those cases in which the land-owner is gradually bringing his entire tract under cultivation but has heretofore been unable because of limited resources, to complete his development.

If defendant can do these things, by simply announcing that it will hereafter refuse to supply any additional water to its customers, every other water utility in the state, domestic, as well as irrigation, can do the same thing, either with or without a new appropriation. Every such utility, if the position of defendant is correct, can take all the remaining water in its possession and either use it for its own private purposes or sell it by private contract to third parties, irrespective of the growing requirements of the communities to whose service the system has been devoted.

Defendant relies, in support of its claim, on the well established rule of law, that as against a lower riparian owner or a subsequent appropriator, the rights of a prior appropriator of water are limited to the amount of water which he has actually applied to beneficial use. This principle, in my opinion, has no bearing on the facts of this case. We have here no adverse claimant. The members of the complainant association and all other parties desiring water from the defendant, claim through the defendant and not against the defendant. The record contains no reference to anyone who has made any adverse appropriation of water or who has or asserts any claim adverse to the defendant to

any of the waters heretofore developed and now under the control of the defendant. The only relationship here under consideration, on the facts as shown in this record, is the relationship existing between a water utility, having in its possession and under its control waters which have been tendered to public use, and its customers and intending customers. If, under such circumstances, there being no adverse claimant to the water, the water utility can by its mere refusal to sell, deny to persons within the class to whose use the water has been devoted the right to receive it, there will be an end to any relief, either by mandamus or before this commission. It will be impossible, in that event, to compel an unwilling water utility to make any extension to serve a new customer or to sell to an existing customer any amount of water in addition to that which it has heretofore sold to him. The authorities hereinbefore cited are conclusive to the effect that it is the duty of the defendant, under the circumstances herein set forth, to proceed and sell water for public use, at least up to the present capacity of its Main canal.

I do not wish to be understood as suggesting that defendant can not be required to extend and enlarge its existing facilities. On the contrary, I am satisfied that in a proper case, where the facts show the order to be just and reasonable, a water utility can be lawfully required to enlarge its existing facilities and to develop additional water so as to carry out more fully its obligations as a public utility. The general principle is clearly expressed by Wyman in section 797 of his work on Public Service Corporations. Referring to water works, gas plants, electric plants and telephone systems, Wyman says, in part:

“There are sufficient authorities to the effect that their obligation to give service is not confined to the original pipes which have been laid, or wires which have been strung. Such companies are held to undertake the service of their communities; and they must, to speak in general, be prepared to extend their system throughout their district to meet the reasonable demands of the growing community. If this involves the acquisition of new sources of supply, or a laying of pipes in new streets, or extension of wires to other streets or the construction of new exchanges, all these new facilities must be provided to meet the expansion of the business within the community to the service of which the company has committed itself.”

In *Capital City Water Company vs. Macdonald*, 105 Ala. 406, 18 So. 62, 29 L. R. A. 743, the corporate charter of the Capital City Water Company was forfeited by reason of failure to dig additional wells to supply the needs of the city of Montgomery.

In *Lukrawka vs. Spring Valley Water Company*, 169 Cal. 318, the Supreme Court of California reversed the court below and directed that mandamus issue to compel Spring Valley Water Company to extend its



distributing system and serve water to additional customers in the city of San Francisco. At page 336 of the Reporter, the court says:

“The right which this acceptance (of its franchise by the corporation) legally secured to each inhabitant of the municipality was in the nature of a public right accruing to him from his status as a person of the class for whose benefit the respondent obligated itself to furnish a water supply. The right was extended to and the obligation of the respondent included each and every person who might become an inhabitant of the municipality while respondent was exercising the public use which it had assumed. By such acceptance a clear and perfect legal right was created in favor of the inhabitants of the municipality to compel a water service to them and upon the respondent to do so.”

That the sale of this water system by Placerville Gold Mining Company to the defendant herein did not alter the legal rights of persons coming within the class of those to whose service the system was devoted, seems clear. The parties to such a sale can not, by merely transferring the title, change the public obligations of the water system. Hence, when demand for additional water for irrigation was made upon the defendant in 1917 by members of complainant's association, the total amount of water demanded being less than the additional water then under defendant's control and capable of being conveyed to the applicants through defendant's Main canal, it was the defendant's duty to supply the water thus demanded. While defendant did supply additional water in 1917 to all persons requiring the same, defendant refused to do so unless in each instance the applicant signed an agreement to the effect that no right to the continued use of such water would arise in his favor from the use thereof in 1917. Such applicants had the right in 1917 and they have the right now, under the principles herein set forth, to receive additional water, without signing any such agreement, at least up to the extent of the existing capacity of the system. It is not necessary here to consider whether it would be just and reasonable to require the defendant to enlarge the capacity of its system for the supply of water for irrigation at the rates herein established.

While the sale of this system to defendant did not change the legal obligations of the system, the sale and defendant's plans in connection therewith have very materially changed the facts. This change in the facts will undoubtedly have a very substantial effect in determining who may use the additional waters now developed and waters hereafter to be developed under this system.

Defendant has made public announcement of its intention to use this water system for the development of hydroelectric energy and has presented to this commission in this proceeding its plans for such development.

That the generation of electricity is a beneficial use for which an appropriation of water may be made has long been settled. *Thompson Co. vs. Pennnebaker*, 173 Fed. 849, 854; *Cascade Town Co. vs. Empire Water and Power Co.*, 181 Fed. 1011, 1016; *United States vs. Utah Power and Light Co.*, 208 Fed. 821, 824; *Speer vs. Stephenson*, 16 Idaho, 707, 102 Pac. 365; *Sternberger vs. Scaton Mining Co.*, 45 Colo. 401, 102 Pac. 168.

Section 1410, Civil Code of California, referring to the appropriation of running water flowing in a river or stream, recognizes the use of water for generating electric energy as being a beneficial use. See also the State Water Commission Act (Stats. 1913, p. 1012).

I do not agree with complainant's contention that the use of water by defendant for the generation of electric energy in its power plants would be carving "a private right out of a public use" and hence void under the doctrine established in *Leavitt vs. Lassen Irrigation District*, 157 Cal. 82. Defendant, in my opinion, has the same right to use water from this system for the generation of hydroelectric energy which it would have had to demand the water for this purpose from Placer-ville Gold Mining Company, if the latter company had retained the system. The transfer of the system to the defendant does not diminish the right which the defendant would otherwise have had to demand water from this system for a public use. Where, as here, the water is to be used by a public service electric utility which sells its electric energy to the public, the use of the water for this purpose, is in my opinion, clearly a public use.

Neither do I agree with complainant's position that "the defendant's predecessors in interest dedicated all of the available water of their system during the irrigating season to irrigating, mining and domestic use." Nor, in this same connection, do I agree with defendant's position that we have here "four separate and distinct dedications," one each for domestic, mining, irrigation and hydroelectric use, respectively. As I read this record, defendant's predecessors in interest did just one primary act—they engaged in the business of selling water for public use. There is nothing to show that they preferred one public use to another. There is absolutely nothing to show that they made a separate dedication for each of the four principal public uses for which water under this system has been sold. They sold the water, without restriction or qualification, for such public use as demanded it at the particular time. The kind of public use as to which the quantity of water predominated changed from time to time, but throughout all the years this system was doing just one thing—selling water for public use.

The use of water by defendant to generate electric energy in its power plants, under the circumstances herein set forth, will be just

as much a public use as the use of water for irrigation. Although heretofore the water sold for hydroelectric purposes has been used only in the months of October, November, December and January, there is nothing in this record to preclude a public use of water for this purpose during other months, consistent with the rights of other persons under this system.

While household and domestic uses are sometimes given a preference over other public uses of water, I have found no authority and know of no satisfactory reason for establishing a preference, on the question of public use, as between irrigation and hydroelectric use in this state. Each use is beneficial and each is of great importance to the state.

In *Union Mill and Mining Company vs. Dangberg et al.*, 81 Fed. 73, Judge Hawley had under consideration the analogous question whether any preference should be established as between appropriators for irrigation and for mining in Nevada. He concluded that these two uses were entitled to equal consideration, saying that "the right to the water of a stream for any beneficial use should always be protected and encouraged."

Referring to appropriations of water for various beneficial uses, Wiel, in section 378, says:

"That all pursuits are on an equal footing, whether miners, agriculturists, manufacturers or other occupations, is a matter previously set forth. The law here again follows out the idea of 'free development' on which it is founded. The following passage from *Bascy vs. Gallagher*, 87 U. S. 670, is frequently quoted: 'Water is devoted to propel machinery in flour-mills and saw-mills, and to irrigate land for cultivation, as well as to enable miners to work their mining claims, and in all such cases the right of the first appropriator, exercised within reasonable limits, is respected and enforced. An appropriation may be made for any beneficial purpose'."

Accordingly, when defendant completes its new storage, transmission and power developments, the public use of generating electric energy, not merely after the irrigating season but also during the irrigating season, will knock at the door of this system and will demand—and will be entitled—to equal treatment with the irrigation use. I do not mean to say that the hydroelectric use will have the right to take away any of the water necessary to serve existing customers of defendant at that time. What I do mean to say is that the hydroelectric use will be entitled to the use of the water at that time developed and not applied to other public use, to the same extent and with the same right as though application for an equal amount of water were at that time made for the purpose of irrigation. If the water at that time demanded for hydroelectric use is all the remaining water then developed in the

system, the hydroelectric use will be entitled to that water. As between public uses of equal dignity, the rule of first come first served should apply.

Until defendant completes its initial new power development and supplies additional water for hydroelectric purposes, the existing public uses have the right to demand that their requirements be fulfilled as in the past. If the irrigationists are prompt in their developments, they will probably be able to bring at least several hundred acres of additional land under irrigation before defendant itself begins the use or additional water for generating electricity. On the other hand, when defendant has completed its initial installation, it will have the right to utilize for the generation of electricity to the extent of its requirements the waters at that time in its possession and control and not then applied to beneficial use. On the facts of the case, if defendant can complete its initial installation within the next two years or so, it is reasonable to assume that defendant will be able to utilize for the generation of electric energy most if not all of the additional water which it is developing on this system.

I do not desire, by anything herein contained, to preclude the possibility of the application of a principle analogous to that established by the Supreme Court of this state in *Senior vs. Anderson*, 115 Cal. 496. After referring to the general rule that an appropriator's right to water is limited, as against other claimants, to the amount theretofore applied by him to beneficial use, the Supreme Court of this state, referring to a prior appropriation of water for irrigation, says, at page 503:

"We do not hold that the Hines appropriation is limited by the quantity of water he could put to a beneficial purpose upon his land the first or second year, but to such quantity as he could put to a useful purpose upon his land within a reasonable time by the use of reasonable diligence." (Citing *Cole vs. Logan*, 24 Ore. 304.)

In other words, when an appropriation is made for irrigation, the appropriator may continue his development even as against an intervening advance claimant, provided that he completes his development within a reasonable time. Wiel is of the opinion (see. 483) that such time will probably be held in California to be five years.

The case now under consideration is, of course, not one of two rival appropriators but of two rival public uses claiming as beneficiaries of a public trust under the same public utility water company. I have no means of knowing whether the courts would apply the principle of *Senior vs. Anderson* to this somewhat analogous situation and am merely drawing attention to the point without in any way passing thereon.

The result of the application of the principles herein set forth to the facts of this case can not now be determined by me with exact precision.

We can not know now when defendant will complete its initial new hydroelectric development and will start using additional water in connection therewith. We do not know how rapidly, in the mean time, the landowners under this system will plant their lands and demand additional water. The resulting uncertainty as to the exact quantity of water which will be available to the various parties is not desirable, although in the very nature of things, it seems unavoidable unless the parties reach a definite agreement defining, for the purpose of the agreement, their respective rights.

It occurs to me that, in view of the facts of this case and the principles of law applicable thereto, the parties may desire to confer and see whether they can not reach a definite agreement as to the extent of their future rights. If, as may well be, the additional requirements of this district for irrigation, after a number of years, must be met from some other source, the sooner the irrigationists know the exact extent of what they may expect from this system the better it will be for all parties concerned. Defendant, very naturally, has a similar desire to know the exact quantity of water on which it may hereafter rely. A definite arrangement of this character entered into in the case of *Montague et al. vs. Pacific Gas and Electric Company*, is working out very satisfactorily in Placer County. (Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 820.)

The record herein does not show any formal demand for additional water made by complainant or its members on defendant. Both parties have stated that they desire to have the Railroad Commission establish the principles applicable to the facts of this case, so that each party may look to the future with more assurance and certainty than has heretofore been the case. Accordingly, the order herein will not direct the defendant to deliver any specific amount of water to the members of the complainant association but defendant will be directed to be guided by the principles herein announced.

If the parties hereafter enter into a definite agreement and desire to have it incorporated herein as a supplemental order, that course may be pursued. Or, if for any reason, either party desires to have further or supplemental proceedings taken herein, this may be done. The case will be held open for these purposes.

#### 8. Rates, rules and regulations.

The rates in effect under this system are as follows:

For irrigation	20 cents per miner's inch per 24 hours
For mining	15 cents per miner's inch per 24 hours
For water sold to Placerville Water	

Works for distribution in Placerville, 12 cents per miner's inch per 24 hours  
For domestic and special sales, various flat rates.

From these rates this system has had earnings and maintenance and operating expenses in 1915, 1916 and 1917, as follows:

<i>1915.</i>	
Earnings -----	\$19,018 99
Maintenance and operating expenses -----	19,589 21
Deficit -----	\$570 22
<i>1916.</i>	
Earnings -----	\$17,618 28
Maintenance and operating expenses -----	22,329 85
Deficit -----	\$4,711 57
<i>1917.</i>	
Earnings -----	\$20,842 45
Maintenance and operating expenses -----	18,189 48
Net earnings -----	\$2,652 97

The foregoing statements include, under maintenance and operating expenses, all replacements, but no allowance is made for any return on the investment.

Defendant asks the commission to establish a rate of 40 cents per miner's inch per 24 hours for both irrigation and mining use, but makes no suggestion with reference to any change in any of its other rates.

In Exhibit No. 35, defendant presents data in substantiation of its request for an increase in its rates for irrigation and mining. The suggested rate base is the sum of \$215,000.00, representing the purchase price of the property to defendant. This sum includes a number of items such as engineering and fee for filing for appropriation of water with the State Water Commission, which are clearly chargeable exclusively to defendant's hydroelectric development. The property purchased also includes valuable engineering data which should be chargeable to the same account. In estimating earnings for 1918, defendant assumes an increase of 8,000 miner's inch days for irrigation and a decrease of 13,000 miner's inch days for mining. No increased rates are applied to defendant's remaining business. Attention should be directed to the fact that the rate paid by Placerville Water Works for water sold by it principally for domestic purposes in the city of Placerville is only 12 cents per miner's inch day. We have here the rather anomalous situation of having water sold for domestic use at a rate less than one-third of the rate asked to be made applicable to irrigation use. The amount claimed by defendant for maintenance and operating expenses includes between \$500.00 and \$600.00 which should properly be chargeable to capital account and presumably includes some deferred maintenance.

Defendant makes no estimate of gross earnings from water to be used by it for hydroelectric purposes. In certain of its **computations**, however, a portion of the capital and of the maintenance and **operating** expenses is charged to that portion of the system which is above the Fourteen-Mile House tunnel.

Defendant concedes that the rates to be charged by it **can not** be based on the estimated cost to reproduce the property for the reason that the property was originally constructed for mining purposes and would not now be constructed to serve the needs of its present day customers.

The Railroad Commission introduced as Railroad Commission's Exhibit No. 1, a statement of rates charged for irrigation by other public utility water systems in the Sierra Nevada foothill district, as reported by Hydraulic Engineer R. W. Hawley. These rates appear in the following table:

Owner	Counties	Rate	*1.5 cubic feet per minute	Remarks
Cottonwood Irrigation and Mfg. Co.	Siskiyou	\$0.05 per M. I. day	.05	Thermalito also \$5 per acre.
Pacific Gas and Electric Co.	Butte	.10 per M. I. day	.10	
Pacific Gas and Electric Co.	Nevada	.25 per M. I. day	.25	
Pacific Gas and Electric Co.	Placer	45.00 per M. I. season	.30	For 150 days.
Northern Water and Power Co.	Nevada	.15 per M. I. day	.15	
Excelsior Water and Mining Co.	Nevada-Yuba	.10 per M. I. day	.10	Reduced from higher commission rate by agreement.
South Feather Land and Water Co.	Butte-Yuba	36.50 per M. I. season	.24	Assume 150 days.
Palermo Land and Water Co.	Butte	.22 per M. I. day	.27½	Established by commission, miner's inch is 1/50 second foot.
Mokelumne Power and Water Co.	Calaveras	.50 per M. I. day	.50	
Hobart Estate Co.	Amador	.10	.12½	1/50 second foot.
North Fork Ditch Co.	Placer	30.00 per M. I. season	.24	1/50 second foot. Assumed 150 days.
Truckee River General Electric Co.	El Dorado	.20 per M. I. 30 day	.20	Fixed by commission.
Happy Valley Land and Water Co.	Shasta	.20 per M. I. 30 day	.20	
Sierra and San Francisco Power Co.	Tuolumne	.12½ per M. I. 30 day	.12½	
Foothill Ditch Co.	Tulare	.12 per M. I. 30 day	.15	
Diamond Ridge Ditch Co.	El Dorado	.30 per M. I. 30 day	.20	1/50 second foot. Fixed by R. C. C. raise.
Western States Gas and Electric Co.	El Dorado	.20 per M. I. 30 day	.20	
Average of 17 cases.			.20 1/20	

\*It is assumed that the miner's inch as measured is the statute measure of flow 1.46 second foot, producing 1.5 cubic feet per minute except where it theoretically is 1.56 second foot producing 1.2 cubic feet per minute. Practically the amounts produced in different places with the different methods of measurement used produce greatly varying results.



After careful consideration, I recommend that the rate for irrigation and mining under this system be established at 24 cents per miner's inch per day of 24 hours.

Mining companies have at times required that a considerable head of water be available at all times for their use even though the amount actually used by them is considerably less than the amount which they have asked to be held for them. In such cases, the mining companies should pay for the amount of water held for them, provided that if they become part of a rotation schedule, the water being made available for other uses during the time it is not needed for mining, so that a single run of water may be less than 24 hours, the rate shall be 1 cent per inch hour. This situation may be covered by rules and regulations to be submitted by the defendant.

A miner's inch, as referred to in the rate herein established, shall be the equivalent of  $1\frac{1}{2}$  cubic feet per minute or  $1/40$  cubic foot per second.

There is not sufficient evidence in this proceeding for the establishment of rates to be charged to any class of service other than irrigation and mining. If the defendant desires hereafter to have rates established for its other classes of customers, it may make application for a supplemental proceeding herein for that purpose.

The commission will entertain suggested rules and regulations from the defendant providing for rotation of water under this system, if defendant considers such procedure desirable.

I submit the following form of order:

#### ORDER.

Public hearings having been held in the above-entitled proceeding, testimony having been presented, briefs having been filed and the case having been submitted for decision,

*It is hereby ordered* that in passing on applications for water from its system in El Dorado County, California, Western States Gas and Electric Company shall be guided by the principles set forth in the opinion which precedes this order.

The Railroad Commission hereby declares that the rates charged by Western States Gas and Electric Company for water sold for irrigation and mining purposes from its water system in El Dorado County, California, are unjust and unreasonable and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing finding of fact and the other applicable findings of fact contained in the opinion which precedes this order, Western States Gas and Electric Company is hereby authorized to charge, effective twenty (20) days from the date of this order, a rate of twenty-four (24) cents per miner's inch per twenty-four (24) hours for all water sold by it for irrigation and mining purposes in

El Dorado County, California; provided, that Western States Gas and Electric Company shall have filed with the Railroad Commission prior to said date said rate and also rules and regulations, as indicated in the opinion which precedes this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twentieth day of May, 1918.

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DECISION No. 5415.

IN THE MATTER OF THE APPLICATION OF SUGAR PINE RAILWAY COMPANY TO LEASE RAILWAY LINE AND EQUIPMENT TO STANDARD LUMBER COMPANY.

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Application No. 5668.

*Decided May 23, 1918.*

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BY THE COMMISSION.

**ORDER.**

Sugar Pine Railway Company, a corporation, has applied to the Railroad Commission for an order approving the terms of a certain lease to the Standard Lumber Company, a corporation, for a period of fifteen years of its line of railway extending from the station of Ralph to Lyons Dam, all in Tuolumne County, in accordance with the provisions of an agreement under date April 12, 1918, a copy of which is attached to the application in this proceeding. The commission being fully advised and of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that this application be and the same hereby is granted.

Dated at San Francisco, California, this twenty-third day of May, 1918.

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DECISION No. 5416.

IN THE MATTER OF THE APPLICATION OF SUMMER HOME REALTY COMPANY FOR AN ORDER AUTHORIZING A UNIFORM CHARGE FOR WATER SERVICE.

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Application No. 3511.

*Decided May 21, 1918.*

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*Edward O'Brien*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Summer Home Realty Company applies for authority to establish a reasonable and uniform rate for water served in the summer resort

known as Summer Home Park near Hilton, Sonoma County, through 73 services, 66 of which were active last season. The present rate is \$5.00 per annum per consumer.

Public hearings were held by Examiner Westover at Summer Home Park on April 23, and at San Francisco on May 2, 1918. Water is developed from a well and two tunnels, the tunnels being on the hillside back of the town, and stored in three tanks with a combined capacity of 18,500 gallons. Physical connection is also made with what is known as the Swain system which operates in this vicinity and sells water to applicant when its supply is short in summer. The Swain system pumps water from a well near the Russian River.

The only appraisal of the property in testimony was presented at the hearing by Milo H. Brinkley, one of the commission's engineers. He estimates the reproduction cost of the property at \$3,570.00 and the annuity to cover annual depreciation at \$57.00.

We estimate that \$315.00 per year will cover maintenance, operating expenses and taxes, which it is estimated will be produced by the rates found in the order. The annual charges would therefore be:

Return on reproduction cost .....	\$286 00
For water purchased .....	50 00
Operating expenses and taxes .....	315 00
Annual depreciation .....	57 00
Total .....	\$708 00

The character of the service is such that water charges on the basis of facilities used does not appear to be equitable. These facilities vary greatly with different consumers and apparently constitute no indication of water use. Also consumers use the service in greatly varying extent. A few live on their property throughout the year, most for about six weeks in the summer, while a number visit their properties several times during other portions of the year. The evidence indicates that if all consumers are charged uniform flat rates for similar periods of time substantial justice will be done. Where there would appear to be an inequality in water charges due to excessive use by some consumers the company expects to remedy this situation by installing meters. For this reason it desires to have a meter rate established. It is also believed that with meters installed water use will lessen and the amount of water necessarily purchased from the Swain system will be materially reduced.

The testimony shows that poor service has been given by consumers at times in the past. The increased rates set out in the order will enable the company to give adequate service, which will be expected.

#### ORDER.

Summer Home Realty Company having applied to the Railroad Commission for an order authorizing an increase in the rates to be charged

its consumers for water, and a public hearing having been held, and the commission being fully advised in the premises,

It is hereby found as a fact by the Railroad Commission of the state of California that the rate set out in this order is a just and reasonable rate to be charged by applicant to its consumers for water and that the rate now charged is not just and reasonable.

Basing its order on the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

*It is hereby ordered* that applicant is authorized to file with this commission the following schedule of rates, said rates to become effective June 1, 1918:

*Flat Rates.*

- (a) Six dollars annually to be paid in advance.
- (b) In addition to the annual charge, payment for each month during which any water is used as follows:
  - (1) Additional flat rates.
 

June and July.....	\$1 25
Remaining months .....	50
The maximum charge to be, per calendar year.....	12 00
  - (2) Additional meter rates.
 

For all use, per 100 cubic feet .....	25
Minimum, per month .....	50

*It is hereby further ordered* that within the period of fifteen (15) days from the date of this order applicant shall file for the approval of this commission rules and regulations governing its service of water.

Dated at San Francisco, California, this twenty-fourth day of May, 1918.

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Decision No. 5418.

IN THE MATTER OF THE APPLICATION OF O. J. MARTIN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE SERVICE BETWEEN VENICE AND SANTA MONICA. (PASSENGER SERVICE.)

Application No. 3640.

IN THE MATTER OF THE APPLICATION OF FRANK FRANCIS FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE SERVICE BETWEEN VENICE AND SANTA MONICA. (PASSENGER SERVICE.)

Application No. 3641.

IN THE MATTER OF THE APPLICATION OF O. C. SCRIBNER FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN VENICE AND SANTA MONICA. (PASSENGER SERVICE.)

Application No. 3642.

IN THE MATTER OF THE APPLICATION OF J. P. MCGOWAN FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE STAGE SERVICE BETWEEN VENICE AND SANTA  
MONICA. (PASSENGER SERVICE.)

Application No. 3643.

IN THE MATTER OF THE APPLICATION OF NELSON O. KELSO FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE STAGE SERVICE BETWEEN VENICE AND SANTA  
MONICA. (PASSENGER SERVICE.)

Application No. 3644.

IN THE MATTER OF THE APPLICATION OF CHARLES CROW FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE STAGE SERVICE BETWEEN VENICE AND SANTA  
MONICA. (PASSENGER SERVICE.)

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Application No. 3645.

*Decided May 24, 1918.*

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AUTOMOBILE TRANSPORTATION. Where existing transportation agencies render adequate service certificate of public convenience and necessity for additional automobile transportation will be denied.

*J. E. Anderson, for O. J. Martin.*

*Frank Francis, in propria persona.*

*O. C. Scribner, in propria persona.*

*J. P. McGowan, in propria persona.*

*Nelson O. Kelso, in propria persona.*

*Charles Crow, in propria persona.*

*Frank Karr, for Pacific Electric Railway Company, Protestant.*

BY THE COMMISSION.

#### OPINION.

Each of the above-named applicants applies for certificate that public convenience and necessity require him to operate a passenger stage service between Santa Monica and Venice, Los Angeles County.

A public hearing upon these applications was held by Examiner Westover in Los Angeles on May 8.

By stipulation of parties, the applications were all heard together, the testimony being treated as offered in connection with each application so far as applicable.

From the testimony it appears that these six applicants own and operate in all eight Ford cars, all but two of them having eight-passenger bus bodies. All are operated over the same route from the eastern limits of Santa Monica westerly along Santa Monica boulevard, parallel with the Pacific Electric car line and thence southerly to Windward avenue, Venice. The route from Santa Monica boulevard south to the

Venice terminal substantially parallels the car line, most of the distance being but one block away from it. One of the applicants operated his car for several months parallel with the car line and several blocks to the east of it, but abandoned the route as unprofitable.

The applicants herein are members of the Bay Cities Auto Bus Owners and Operators Association, a co-operative organization, which maintains the terminals and keeps busses running upon schedule time. There are in all seventeen busses which operate over the route in question upon a schedule accommodating fourteen busses at one time. The other three are kept in reserve and make extra trips when a bus is unable to make its scheduled trip; and also to make regular trips during the busier hours of the day. Under a fixed plan of rotation, three of the seventeen busses are taken off the regular schedule and put into the so-called reserve at intervals of about every five weeks. Besides the above seventeen busses operating between Venice and Santa Monica as above described, there are five additional busses which operate over the same route, and on to Sawtelle. One of them, however, is kept in the so-called reserve, so that there are a total of four busses operated regularly.

Applicants estimate that regular busses operating the entire day from 6 a.m. to 11 p.m. carry an average of about 200 passengers per day and that reserve or extra busses operating about ten hours per day carry about 150 passengers per day. The fare charged by the busses and the street cars is 5 cents for all or part of the distance traveled, which is about five miles.

Pacific Electric Railway operates street cars over the same route seventy-five round trips daily; except that two round trips between Santa Monica boulevard and Ocean avenue and Sawtelle are made via San Vincente boulevard and Brentwood Park; but the route of these cars southerly from Santa Monica to Venice is the same as the cars making the seventy-three round trips daily. Besides this service there is also a 20-minute service by the so-called short line cars operating between Los Angeles, Venice and Santa Monica and covering that portion of the route lying between Windward avenue, Venice and Santa Monica boulevard in Santa Monica.

Mr. Anderson, who is the traffic manager for the bus association, testified that in his opinion if the Pacific Electric should cease all local service between Venice and Santa Monica it would have little effect upon the business of the busses, although it would increase their business somewhat. It also appears from the testimony of Mr. R. E. Kelly, an agent of the Pacific Electric passenger department, that the travel by cars is very light and that the present equipment operated over the route in question can very comfortably handle four or five times as many passengers as it now handles. It is also apparent from the figures

given that the bus line is operated only to about half its capacity. The transportation agencies already authorized to operate over the route in question are more than able to adequately serve public convenience and necessity.

The bus lines in question were established prior to May 1, 1917, and each appears to have been sold several times. Each of the six present applicants purchased since that time and so far has been operating without authority.

#### ORDER.

O. J. Martin, Frank Francis, O. C. Serilner, J. P. McGowan, Nelson O. Kelso and Charles Crow having applied to the Railroad Commission for declaration that public convenience and necessity require them to operate automobile passenger stage line between Santa Monica and Venice, public hearing having been held thereon, and it appearing from the testimony that public convenience and necessity does not require the service proposed,

*It is hereby ordered* that each of said applications above described be and it is hereby denied.

Dated at San Francisco, California, this twenty-fourth day of May, 1918.

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#### Decision No. 5421.

IN THE MATTER OF THE APPLICATION OF THE EMERGENCY TRANSPORTATION COMPANY FOR A CERTIFICATE THAT PRESENT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF A STREET RAILROAD AND FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK AND EXECUTION OF PROMISSORY NOTES FOR THE PURPOSES OF SUCH CONSTRUCTION.

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Application No. 3754.

*Decided May 21, 1918.*

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W. H. Smith, for Applicant.

A. T. Wright, for United States Shipping Board Emergency Fleet Corporation.

THELEN, *Commissioner*.

#### OPINION.

Emergency Transportation Company asks authority to issue \$10,100.00 par value of stock and \$9,675.00 face value of 5 per cent notes payable on or before ninety days after the execution of a treaty of peace terminating the state of war now existing between the United States of America and the German Empire. The petitioner also asks

authority to exercise the rights and privileges granted to it by resolution No. 16654, new series, of the city of Oakland, a copy of which is attached to the petition herein and marked Exhibit "D."

Emergency Transportation Company was organized on or about April 27, 1918, with an authorized capital stock of \$20,000.00 divided into 200 shares of the par value of \$100.00 each. The corporation was organized for the purpose of providing street car transportation facilities for the employees of the Moore Shipbuilding Company. It proposes to build a single track street railway line with turn-out on Chestnut street in the city of Oakland from Eighth street to First street in said city. At Eighth street the line will connect with the lines of the San Francisco-Oakland Terminal Railways. In Exhibit "C" petitioner estimates the cost of its proposed street railway line at \$22,057.73.

The United States Shipping Board Emergency Fleet Corporation has agreed to loan to the Emergency Transportation Company \$9,675.00 represented by 5 per cent notes payable on or before ninety days after the termination of the war with Germany. The remainder of the funds necessary to build the line will be obtained from the issue of \$10,100.00 par value of stock at par. Petitioner in its Exhibit No. 2 reports that the San Francisco-Oakland Terminal Railways is willing to subscribe for the \$10,100.00 of stock. It will pay for the same by furnishing the necessary construction materials. Upon completion of the line, it will be operated by the San Francisco-Oakland Terminal Railways under a lease agreement. The execution of the lease agreement, as well as the purchase of the \$10,100.00 of stock by the San Francisco-Oakland Terminal Railways, are matters which will be submitted to the commission in a future proceeding.

I herewith submit the following form of order:

#### ORDER.

Emergency Transportation Company having applied to the Railroad Commission for authority to issue stock and notes as set forth in the foregoing opinion and for authority to exercise the rights and privileges granted by Resolution No. 16654, new series, of the city of Oakland, a public hearing having been held and the Railroad Commission being of the opinion that this application should be granted and that the money, property or labor to be procured or paid for by the issue of said stock and notes is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

The Railroad Commission hereby declares that public convenience and necessity require the exercise by Emergency Transportation Company of rights and privileges conferred upon it by Resolution No. 16654,



new series, of the city of Oakland, provided that Emergency Transportation Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Emergency Transportation Company, its successors and assigns will never claim before the Railroad Commission, or any court or other public body, a value for said rights and privileges in excess of the amount actually paid to the city of Oakland as consideration for the grant of said rights and privileges, which amount shall be set forth in the stipulation, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed with the Railroad Commission.

*It is hereby ordered* that Emergency Transportation Company be and it is hereby granted authority to issue at par \$10,100.00 par value of its common capital stock and \$9,675.00 face value of 5 per cent notes payable on or before ninety days after the execution of a treaty of peace terminating the state of war now existing between the United States of America and the German Empire, upon the following conditions:

(1) The proceeds obtained from the issue of the stock and notes herein authorized shall be used by Emergency Transportation Company for the purpose of constructing its line of railway referred to in Exhibits "C" and "D," attached to the petition herein.

(2) Emergency Transportation Company shall keep true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and notes herein authorized to be issued and on or before the twenty-fifth day of each month shall make a verified report to the Railroad Commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted to issue notes shall not become effective until the payment of the fee prescribed by the Public Utilities Act.

(4) The authority herein granted shall apply only to such stock and notes as shall have been issued on or before December 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fourth day of May, 1918.

## DECISION No. 5422.

IN THE MATTER OF THE APPLICATION OF THE A. E. JONES WAREHOUSE, DAVIS & FREY, STOREY WAREHOUSE COMPANY, SAUNDERS BROTHERS, TRIGO GRAIN COMPANY, CALIFA WAREHOUSE COMPANY, GREENLEAF WAREHOUSE, RATTLESNAKE WAREHOUSE COMPANY, SHARON WAREHOUSE COMPANY, TO INCREASE WAREHOUSE RATES FOR THE STORAGE AND HANDLING OF GRAIN IN THEIR RESPECTIVE WAREHOUSES AT VARIOUS POINTS IN MADERA COUNTY.

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Application No. 3710.

*Decided May 24, 1918.*

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*H. M. Davis*, for Davis & Frey.

*M. C. Phillips*, for Storey Warehouse Company.

*E. M. Saunders*, for Saunders Brothers.

*E. P. Brown*, for Trigo Grain Company.

*W. H. Gibbs*, for Califa Warehouse.

*W. D. Cobb*, for Greenleaf Warehouse.

*J. C. Straube*, for Rattlesnake Warehouse Company.

*Claude Hining*, for Sharon Warehouse Company.

BY THE COMMISSION.

**OPINION.**

This proceeding involves the applications of nine warehousing firms, as enumerated above, who seek authority to increase rates for the storage of grain and for shipping grain through warehouses located in Madera County. A public hearing was held before Examiner Westover at Madera, May 10, 1918.

The A. E. Jones Warehouse, located at Trigo, failed to have a representative at the hearing and as no evidence was presented in its behalf, the application will be dismissed. The remaining eight applicants appeared and presented testimony and the order entered herein will apply to them alone.

Davis & Frey operate five warehouses, one at Daulton, with a capacity of 1,500 tons; two at Berenda, one having a capacity of 1,500 tons and the other 1,750 tons; one at Talbot and one at Borden, each having a capacity of 3,500 tons.

The Storey Warehouse Company has two warehouses at Storey, with capacity of 3,000 and 1,000 tons, respectively.

Saunders Brothers have two warehouses at Madera, with capacity of 1,000 and 2,000 tons, which they operate in connection with their barley rolling, feed mill and grain business.

The Trigo Grain Company operates a warehouse at Trigo, having a capacity of about 4,500 tons.

W. H. Gibbs operates a warehouse at Califa, under the name of Califa Warehouse Company, which has a capacity of about 3,750 tons.

W. D. Cobb has at Greenleaf what is known as the Greenleaf Warehouse, having a capacity of about 3,700 tons.

The Rattlesnake Warehouse Company operates a warehouse on the Italian-Swiss spur near Madera, having a capacity of about 3,000 tons.

Claude Hining operates a warehouse at Sharon, known as the Sharon Warehouse, with a capacity of about 4,000 tons.

All applicants now have in effect uniform rates, viz:

Grain on storage to January 1-----	\$0 75 per ton
Grain on storage to June 1-----	1 00 per ton
Shipping grain through warehouse-----	25 per ton

These rates include the receiving, weighing and piling of grain and the loading on cars or wagons.

It is proposed to increase rates, as follows:

Grain on storage to January 1-----	\$1 00 per ton
Grain on storage to June 1-----	1 25 per ton
Shipping grain through warehouse-----	35 per ton

The new rates to include the same service in and out of the warehouses as that rendered under the rates now in effect.

The reasons assigned by applicants in justification of the increases are the abnormal advance in the cost of labor and materials as compared with the cost at the time the rates now in effect were first established, several years ago. Testimony shows that since 1916 wages have increased from 30 to 50 per cent and that from present indications applicants will be obliged to pay still higher wages during the coming season. It is in evidence that under federal regulation it is incumbent upon warehousemen to load cars to their full carrying capacity, which entails much additional time and labor. Under the old custom cars were usually loaded six sacks high, which method permitted straight trucking and dumping; where as by reason of the new regulations cars must be loaded more than six sacks high, necessitating lifting the additional sacks by hand and placing them in position.

Under the present economic conditions it is practically impossible to estimate the amount of revenue these applicants will receive for the storage of grain during the year 1918, for much of it may move direct from the harvest field through the warehouses into the cars for immediate transportation to our allies, in which case the principal charges collected will be based on the proposed rate of 35 cents per ton for grain passing through the warehouses.

Although notice of this proceeding and the date of hearing was sent to each of applicants' patrons as required by this commission's rules, no one appeared at the hearing in opposition. In their testimony, a number of the warehousemen stated that storers had been interviewed

and notified of the proposed increases, but no objections were offered; on the contrary, several storers of grain expressed approval of the proposed rates.

The testimony clearly indicates that under the high and uncertain cost of labor and materials these warehouses can not continue to operate successfully at the present rates during the period of war and upon the record the applications should be granted.

#### ORDER.

The applicants hereinabove named having applied for authority to increase warehouse rates as hereinafter authorized, and a public hearing having been held thereon, testimony having been taken, the matter having been submitted and being now ready for decision,

*It is hereby ordered*, no appearance having been made on behalf of A. E. Jones Warehouse or A. E. Jones, and no testimony having been submitted showing any justification for increased rates at said warehouse, the application as to said A. E. Jones Warehouse is hereby dismissed.

The commission finding that the rates now in effect by the warehousemen hereinafter named at their respective warehouses are unreasonable and unjust and that the rates hereinafter named are just and reasonable rates, and basing its order upon the above finding of fact and upon the further finding of facts set forth in the opinion preceding this order,

*It is hereby ordered* by the Railroad Commission that H. M. Davis and W. F. Frey, partners, as Davis & Frey, operating warehouses at Daulton, Berenda, Talbot and Borden; Storey Warehouse Company, operating two warehouses at Storey; Saunders Brothers, operating two warehouses at Madera; E. P. Brown, operating warehouse at Trigo, under the name of Trigo Grain Company; W. H. Gibbs, operating warehouse at Califa, under the name of Califa Warehouse; Rattlesnake Warehouse Company; W. D. Cobb, operating warehouse at Greenleaf under the name of Greenleaf Warehouse; and Claude Hining, operating warehouse at Sharon under the name of Sharon Warehouse Company, all of said warehouses being located in Madera County, California, be and they are hereby authorized to charge and collect upon filing tariffs with the commission, the following rates at said warehouses:

Grain on storage to January 1 .....	\$1 00 per ton
Grain on storage to June 1 .....	1 25 per ton
Shipping grain through warehouse .....	35 per ton

The collection of above rates shall be conducted upon the rendering of first-class service and receiving, weighing, piling, carrying in storage, resacking, loading into cars and such other service as is customary.

Dated at San Francisco, California, this twenty-fourth day of May, 1918.

## DECISION No. 5424.

IN THE MATTER OF THE APPLICATION OF WESTERN FUEL GAS AND POWER COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE SALE BY THE FORMER TO THE LATTER OF A GAS DISTRIBUTING SYSTEM AND FRANCHISES.

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Application No. 5448.

*Decided May 24, 1918.*

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*R. E. Matteson*, for Western Fuel Gas and Power Company.  
*O'Melveny, Milliken & Tuller*, by *R. B. Reppy*, for Southern California Gas Company.

EDGERTON, *Commissioner*.

**OPINION.**

Western Fuel Gas and Power Company asks authority to sell for \$150,000.00 its gas generating and distribution system including its franchises, office furniture, stores, accounts receivable, etc., to Southern California Gas Company. The purchasing company joins in the application. Of the purchasing price, the Southern California Gas Company proposes to pay \$30,360.00 in cash, \$80,640.00 through the issue of \$84,000.00 of its first mortgage 6 per cent bonds, and \$39,000.00 through the issue of a ten-year serial noninterest bearing note having a face value of \$39,000.00.

Western Fuel Gas and Power Company was organized on or about April 10, 1902. The company has an authorized stock issue of \$30,000.00 of which \$22,501.00 is reported outstanding. Of the outstanding stock, the Estate of J. H. Spires owns \$22,485.00. The company has no bonded indebtedness. Its current liabilities are reported at \$136,701.81, of which \$127,669.04 represents advances and accrued interest thereon payable to the Estate of J. H. Spires.

Western Fuel Gas and Power Company owns a gas generating plant in the city of Hermosa Beach and owns and operates a gas distributing system in the cities of Redondo Beach, Manhattan Beach and Hermosa Beach, Los Angeles County. W. J. Hammond, assistant engineer in the gas and electric division of the Railroad Commission, estimates the reproduction cost new of the properties of Western Fuel Gas and Power Company as of October 1, 1917, at \$189,123.00, and the reproduction cost new less depreciation at \$147,697.00. These figures include \$12,000.00 allowed for land which the Southern California Gas Company does not propose to acquire. The figures do not include any allowance for current assets other than materials and supplies.

Since 1912, the Western Fuel Gas and Power Company has been purchasing natural gas from the Southern California Gas Company.

The introduction of natural gas has rendered the generating plant of the Western Fuel Gas and Power Company obsolete. The investment in the generating plant is estimated by the parties to this proceeding at \$44,000.00, the salvage value of \$5,000, leaving a loss of \$39,000.00. Against the generating plant, Southern California Gas Company would issue a ten-year noninterest bearing serial note for \$39,000.00, payable in monthly installments of \$325.00 each. Should it realize more than \$5,000.00 from the sale of the generating plant, any amount in excess of \$5,000.00 will be applied to the payment of the last installments on the note.

From the records on file with the Railroad Commission, it appears that the properties of Western Fuel Gas and Power Company during the past few years have been operated at a loss. The loss is in part due to the leakage following the introduction of natural gas. The company has been endeavoring to overcome this leakage, but thus far has not been able to reduce it to normal.

Southern California Gas Company proposes to continue in effect the rates now charged by Western Fuel Gas and Power Company until such time as the efficiency in operation, the reduction in leakage and the increased business warrant a decrease in the rates. Officials of Southern California Gas Company are of the opinion that a reduction in rates will be possible in the future under their management, but this can hardly be expected were the present conditions to prevail. Inasmuch as it appears that the properties of the Western Fuel Gas and Power Company have for some time past been operated at a loss, that the generating plant of the company has been rendered obsolete through the introduction of natural gas, that the public has benefited through the introduction of natural gas because of its greater heat units, that the Southern California Gas Company because of its larger operations and organization will be able to introduce economies and bring about greater efficiency that will perhaps justify a decrease in rates, I believe that the purchasing company should be permitted to amortize the value of the generating plant as outlined in this application and issue in payment for the generating plant a ten-year noninterest bearing serial note for \$39,000.00 payable in monthly installments of \$325.00 each.

Southern California Gas Company proposes to pay for the distribution system and properties of Western Fuel Gas and Power Company, other than its generating system, \$111,000.00. Of this amount, it intends to pay \$30,360.00 in cash and \$80,640.00 through the issue of \$84,000.00 of its first mortgage 6 per cent bonds payable November 1, 1950. The selling corporation has agreed to accept these bonds at 96. Viewed as a separate entity, I do not believe that the properties of Western Fuel Gas and Power Company, as now existing and being operated, would justify the creation of \$84,000.00 bonded indebtedness. However, if

this transaction is consummated, the properties will no longer be a separate entity but become a part of the properties of Southern California Gas Company. The lien of the mortgage of Southern California Gas Company extends to all of its properties owned on November 1, 1910, the date of the mortgage, as well as to those acquired subsequent thereto. The earnings of Southern California Gas Company appear to be adequate to enable the company to pay the interest on the \$84,000.00 of bonds which it now desires to issue.

I herewith submit the following form of order:

**ORDER.**

Western Fuel Gas and Power Company and Southern California Gas Company having filed with the Railroad Commission the petition herein as appears in the opinion which precedes this order, a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for though the issue of bonds is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Western Fuel Gas and Power Company be and it is hereby granted authority to sell its entire gas generating and distributing system, including its franchises and office furniture, stores, accounts receivable, etc., to Southern California Gas Company for the sum of \$150,000.00.

*It is hereby further ordered* that Southern California Gas Company be and it is hereby granted authority to issue \$84,000.00 face value of its first mortgage 6 per cent bonds due and payable November 1, 1950, at not less than 96 per cent of their face value plus accrued interest, as part payment for the properties herein authorized to be acquired.

*It is hereby further ordered* that Southern California Gas Company be and it is hereby granted authority to issue a ten-year serial noninterest bearing note for the principal sum of \$39,000.00 payable in monthly installments of \$325.00 each, said note to be issued in part payment for the properties herein authorized to be acquired.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) Before this order shall become effective Southern California Gas Company shall file with the Railroad Commission a stipulation duly authorized by its board of directors agreeing that neither it, its successors or assigns will ever claim before the Railroad Commission or other regulatory body a value for the franchises to be acquired from Western Fuel Gas and Power Company in excess of the actual cost of such franchises to Western Fuel Gas and Power Company, said stipulation to show the amount paid for such franchises by Western Fuel Gas and Power Company, and shall have received from the Railroad Commission

a supplemental order declaring that such stipulation satisfactory in form has been filed with the Railroad Commission.

(2) The purchase price of the properties herein authorized to be sold and transferred shall never be urged before the Railroad Commission or other regulatory body as a measure of the value of said property for rate-fixing or purposes other than this proceeding.

(3) If the Southern California Gas Company shall realize more than \$5,000.00 from the sale of the generating plant and equipment acquired from Western Fuel Gas and Power Company, the amount in excess of said \$5,000.00 shall be applied to the payment of the last installments of the \$39,000.00 serial note herein authorized to be issued.

(4) Southern California Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the bonds and note herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the commission as required by the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted to issue bonds and a note shall not become effective until Southern California Gas Company has paid the fee prescribed by the Public Utilities Act.

(6) The authority herein granted to issue bonds and a note shall apply only to such bonds and note as may be issued on or before September 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fourth day of May, 1918.

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DECISION No. 5425.

IN THE MATTER OF THE APPLICATION OF THE NORTH GLENDALE  
DISTRIBUTING COMPANY AND N. C. KELLEY, OWNER AND  
OPERATOR, TO MORTGAGE.

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Application No. 3600.

*Decided May 21, 1918.*

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W. E. Evans, for Applicant.

EDGERTON, *Commissioner.*

**OPINION.**

N. C. Kelley, doing business under the name of The North Glendale Distributing Company, asks authority to mortgage his public utility



water plant to secure the payment of \$5,700.00 indebtedness to be represented by a \$5,000.00 7 per cent one-year note payable to the First National Bank of Glendale, and a \$700.00 7 per cent one-year note payable to W. W. Lee.

Applicant is engaged in furnishing and distributing water for domestic and other purposes to the people of a section in the unincorporated village of Casa Verdugo, located immediately north and adjoining the boundary of the city of Glendale. The properties to be mortgaged consist in general of lots 131 and 132 of Casa Verdugo Villa Tract as per map recorded in book 9 of maps, page 110, records of Los Angeles County, California, and all appurtenances belonging thereto, together with approximately 1,800 feet of six-inch pipe, 1,000 feet of four-inch pipe, 4,350 feet of two-inch pipe, about 50 meters and service connections, together with necessary laterals in connection therewith; also 150½ shares of stock in the Verdugo Water Company, together with a like number of ten-thousandths shares in the Verdugo Canyon stream, 150½ shares of stock in the North Glendale Reservoir and Pipe Line Company, together with a like number of ten-thousandths shares in Verdugo Canyon stream; also rights of way and pipe lines across lot 130 of the Casa Verdugo Villa Tract together with all other property used in connection with the water distributing system of N. C. Kelley.

Applicant reports that the proceeds from the issue of the notes will be used to pay \$1,830.00 indebtedness due Marshall Stimson and \$3,200.00 indebtedness due the First National Bank of Glendale, and that the balance will be used to pay matured interest, expenses incidental to this application and the improvement of the water system.

Although applicant does not ask authority from the Railroad Commission to issue the notes it appears that some of the funds obtained through the issue of notes will be used to pay indebtedness represented by notes. It will therefore be necessary for the commission to authorize the issue of the notes as well as the execution of the mortgage.

A copy of the proposed mortgage, which applicant desires to execute, is attached to the petition here. This mortgage is of the standard form.

Applicant reports that the earnings of the water plant are adequate to pay interest on \$5,700.00 indebtedness.

I herewith submit the following form of order:

#### ORDER.

N. C. Kelley, doing business under the name of The North Glendale Distributing Company, having applied to the Railroad Commission for authority to execute mortgages to secure the payment of \$5,700.00 of indebtedness, a hearing having been held and the commission being of the opinion that the money, property, or labor to be procured or paid for by the issue of the notes is reasonably required for the purpose or purposes specified in the order,

*It is hereby ordered* that N. C. Kelley, doing business under the name of The North Glendale Distributing Company, be and he is hereby granted authority to issue a one-year 7 per cent \$5,000.00 note to the First National Bank of Glendale; to issue a one-year 7 per cent \$700.00 note to W. W. Lee and to execute mortgages substantially in the same form as the mortgage attached to the petition herein to secure the payment of the notes herein authorized to be issued, all upon the following conditions:

(1) The notes herein authorized to be issued shall be issued at not less than the face value thereof.

(2) The proceeds obtained through the issue of the notes herein authorized shall be used in part for the following purposes:

To pay indebtedness due Marshall Stimson.....	\$1,830 00
To pay indebtedness due First National Bank of Glendale.....	3,200 00

The remainder of the proceeds (\$730) to be expended for purposes hereafter authorized by the Railroad Commission in a supplemental order or orders.

(3) The approval herein given of said mortgages is for the purposes of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgages as to such other legal requirements to which said mortgages may be subject.

(4) N. C. Kelley, doing business under the firm name of The North Glendale Distributing Company, shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the notes herein authorized to be issued and on or before the twenty-fifth day of each month shall make verified reports to the commission showing the moneys realized from the issue of the notes and the use and application of such money, all in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted is conditioned upon the payment of the fee prescribed by the Public Utilities Act.

(6) The authority herein granted to issue notes shall apply only to such note or notes as may be issued on or before August 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of May, 1918.

## Decision No. 5427.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED TERMINALS COMPANY, THE HASLETT WAREHOUSE COMPANY, THE HUTTON WAREHOUSE, PENINSULA WAREHOUSE, SAN FRANCISCO WAREHOUSE COMPANY, SEAWALL U. S. BONDED WAREHOUSE, SOUTH END WAREHOUSE COMPANY, AND VALLEJO BONDED AND FREE WAREHOUSES FOR AUTHORITY TO INCREASE CHARGES FOR HANDLING AND WEIGHING COMMODITIES IN WAREHOUSES AT THE PORT OF SAN FRANCISCO.

## Application No. 3703.

IN THE MATTER OF THE APPLICATION OF DE PUE WAREHOUSE COMPANY FOR AUTHORITY TO INCREASE CHARGES FOR HANDLING AND WEIGHING COMMODITIES IN WAREHOUSES AT THE PORT OF SAN FRANCISCO.

## Application No. 3704.

IN THE MATTER OF THE APPLICATION OF TURNER-WHITTELL WAREHOUSES AND NATOMA WAREHOUSES FOR AUTHORITY TO INCREASE CHARGES FOR HANDLING AND WEIGHING COMMODITIES IN WAREHOUSES AT THE PORT OF SAN FRANCISCO.

## Application No. 3711.

IN THE MATTER OF THE APPLICATION OF LAWRENCE WAREHOUSE COMPANY FOR AUTHORITY TO INCREASE CHARGES FOR HANDLING AND WEIGHING COMMODITIES IN WAREHOUSES AT OAKLAND AND SACRAMENTO.

## Application No. 3712.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED TERMINALS COMPANY FOR AUTHORITY TO INCREASE CHARGES FOR HANDLING AND WEIGHING COMMODITIES IN ITS SACRAMENTO VALLEY DOCK AND WAREHOUSE, LOCATED IN YOLO COUNTY ON THE SACRAMENTO RIVER, OPPOSITE THE CITY OF SACRAMENTO.

## Application No. 3736.

IN THE MATTER OF THE APPLICATION OF DE PUE WAREHOUSE COMPANY FOR AUTHORITY TO CHARGE FOR HANDLING COMMODITIES AT ITS WAREHOUSES AT WILLIAMS, BERLIN, CORTENA, CORNING, DELEVAN, DURHAM, GREENWOOD, MALTON, ORLAND, PROBERTA AND TEHAMA.

## Application No. 3722.

*Decided May 25, 1918.*

WAREHOUSE RATES—EVIDENCE. (1) Storage rates increased because of increased labor expenses.

(2) Held that commission must render its decisions in conformity with pleadings and sworn testimony and can not give effect in the opinion and order to informal complaints filed either before or after submission of the case which are not of record.

*C. W. Durbrow*, for Applicants.

*Seth Mann*, for San Francisco Chamber of Commerce.

*John A. O'Connell*, for certain men working in the warehouses, and Mr. *Ellison*, secretary for Waterfront Federation.  
*H. R. Blair*, for Grocers' Brokers Association of San Francisco.  
*W. E. Gravel*, for M. J. Brandenstein.

*DEVLIN, Commissioner.*

#### OPINION.

These applications cover practically the same issues, and having been heard together will be disposed of in one opinion and order. The relief sought under Applications Nos. 3703, 3704, 3711, 3712 and 3736 cover only the labor, handling and weighing charges at the different warehouses and is in substance as follows:

1. To increase the rate from 50 cents to 75 cents per hour per man for special labor in connection with the handling of commodities.
2. To increase the rate per package or per ton for handling commodities from approximately 25 cents per ton to 45 cents per ton and making the minimum charge for labor for each article handled 25 cents instead of 15 cents.
3. To increase rate for weighing from 25 cents to 35 cents per ton and the minimum charge from 10 cents to 15 cents.
4. To increase the rate for loading cars with packages weighing 150 pounds each, or less, from 25 cents to 30 cents per ton, and on packages exceeding 150 pounds in weight from 32½ cents to 40 cents per ton.
5. To increase the rate for unloading cars with packages weighing 150 pounds, or less, from 20 cents to 25 cents per ton; to increase the rate from 20 cents to 32½ cents per ton on packages exceeding 150 pounds in weight, and to make the same charge for loading or unloading gondola cars.
6. To increase the rate from 50 cents to 75 cents per hour for loading or unloading iron, machinery and other heavy and bulky articles.
7. That the labor charge for repiling merchandise in warehouses be the same as the handling charge.

The present and proposed rates are more clearly set forth in the following table:

Service	Rates	
	Present	Proposed
Special labor .....	50¢ per hour	75¢ per hour
Labor charges (in and out of warehouse).....	*25¢ per ton	45¢ per ton
Minimum charge .....	15¢ per art.	25¢ per art.
Weighing .....	25¢ per ton	35¢ per ton
Minimum charge .....	10¢ per ton	15¢ per ton
Loading cars—		
Packages 150 pounds or less.....	25¢ per ton	30¢ per ton
Packages over 150 pounds.....	32½¢ per ton	40¢ per ton
Unloading cars—		
Packages 150 pounds or less.....	20¢ per ton	25¢ per ton
Packages over 150 pounds.....	20¢ per ton	32½¢ per ton
Gondola cars—		
Loading or unloading.....	20¢ per ton	32½¢ per ton
Iron, machinery, etc.—		
Loading or unloading.....	50¢ per hour	75¢ per hour
Repiling .....	*25¢ per ton	45¢ per ton

\*Approximately.

As to the San Francisco warehouses, the petitions all set forth the plea that the rates under discussion are those established by this commission in its decision in Applications numbered 16 to 26 inclusive and No. 28 (Opinions and Orders of the Railroad Commission of California, Vol. 1, page 155), and Application No. 125 (Opinions and Orders of the Railroad Commission of California, Vol. 1, page 647) of June and October, 1912; that these rates when established were, in many instances, lower than normal and have not yielded sufficient revenue to cover the actual cost paid to laborers; that in 1912 labor was paid \$2.50 per day for nine hours, this wage was increased in February, 1917, to \$2.75 and in July, 1917, to \$3.00; that the organization of its employees is now demanding \$4.00 per day of eight hours, and threaten to leave their present employment unless the increase in wages is granted in the immediate future. It is alleged the higher wages are only a part of the augmented costs in performing this service and that there have also been large increases in the prices of materials, equipments and for compensation insurance since the year 1912.

Application No. 3722 of the De Pue Warehouse Company, seeks authority to add a new item to its tariff providing for a charge of 25 cents per ton for handling all commodities into and out of its warehouses located at Williams, Berlin, Cortena, Corning, Delevan, Durham, Greenwood, Malton, Orland, Proberta and Tehama. Under the rates now in effect the moving of commodities to and from these warehouses is included in the storage charge, but applicants allege that under existing conditions the service can no longer be rendered without incurring a loss.

The most radical increase brought about under the proposed rates at San Francisco, Oakland and Sacramento is in the labor charge, which is now approximately 25 cents per ton except on special commodities. This will be increased to a uniform basic rate of 45 cents per ton.

The date of hearing was regularly published in conformity with the rules of practice and procedure, some five thousand individual notices were mailed by applicants to their customers and the usual information given the public press, but notwithstanding this great publicity and the importance of the increases, no one appeared in direct opposition to the application.

Mr. Seth Mann, appearing for the San Francisco Chamber of Commerce, was not in opposition to the proposed increases in rates, but was particularly interested in the manner in which the additional labor costs were to be spread. He stated that the grain dealers, members of the Chamber of Commerce, were not convinced that the charges for handling grains should be changed; however, no testimony was introduced by any grain dealer. The only objecting witness was a repre-

representative of the Wholesale Grocers' Association, who testified that a test was made by his firm of the labor cost in handling a certain consignment of canned goods, the object of the testimony being to prove that the exhibits presented by applicants showing the expenses incurred in handling a ton of freight were not entirely accurate. It was not demonstrated to the satisfaction of the commission that the operating conditions were the same and while, under ideal circumstances, a privately conducted store room with a well trained and carefully controlled working force can handle a given amount of tonnage at a lesser cost than a public warehouse, such cost could not be used as a working basis for the establishment of rates at a public warehouse, where the control of labor, its efficiency and many other factors are entirely dissimilar. This witness, however, recognized the present day conditions in the high cost of labor and materials and conceded that an advance of 50 per cent in the present rates would not be unjust.

The gist of applicants' case is carried in their exhibits, ten in number, supplemented by the testimony of the secretary of the Warehousemen's Association of San Francisco and that of the country manager of the Sacramento Valley Warehouses, operated by the De Pue Warehouse Company. The exhibits deal with the receipts and expenditures for labor, the receipts including only revenue for labor of handling, loading, unloading, weighing and special service; the expenditures including wages of regular and extra labor engaged in handling, repairs of appliances, liability insurance and power, but does not include any part of the expense for superintendence, general office, water and light, telephone, loss and damage, etc.

Exhibits Nos. 1, 2, 3, 4 and 5 show the results obtained for labor services at the warehouses of the Haslett Warehouse Company, the San Francisco Warehouse Company, the Lawrence Standard Warehouse Company, the Natoma Warehouse Company and the Turner-Whittell Warehouse Company located at San Francisco and Oakland. These exhibits cover certain years, beginning with 1914, and in every instance show that the labor services were performed at a positive loss, which would be somewhat increased if to the expenditures were added the cost for superintendence, insurance, office and general expenses.

Exhibit No. 10 gives in detail the labor cost per ton at the country warehouses, operated by the De Pue Warehouse Company, located in the Sacramento Valley, during the years 1915, 1916 and 1917. Without reproducing the exhibit in full it is pertinent to call attention to the fact that at Cortena the labor cost for delivering and loading a car of grain was \$0.0352 in 1915, the cost per ton at the same point was \$0.136 in 1917, or an increase of 286 per cent; at Delevan the cost in 1915 was \$0.0965 and in 1917 \$0.238, or an increase of 146 per cent. For

receiving grain at warehouse door, trucking and piling, the charge at Cortena was \$0.1085 per ton in 1915 and \$0.1888 in 1917, or an increase of 74 per cent; at Delevan this labor cost in 1915 was \$0.1052, in 1917 \$0.2120, or an increase of 101 per cent.

The recapitulation of this exhibit is as follows:

	1915	1916	1917
Receiving and piling.....	\$0.127	\$0.1302	\$0.1700
Delivering and loading car.....	.073	.0770	.1136
<b>Total</b> .....	<b>\$0.20</b>	<b>\$0.2072</b>	<b>\$0.3136</b>

The wages paid under these costs were 25 cents per hour in 1915 and 1916, 30 cents per hour in 1917 and 30 to 40 cents per hour in 1918. It will thus be seen that the average total cost for receiving and delivering grain at these Sacramento Valley warehouses jumped from 20 cents per ton in 1915 to \$0.3136 in 1917, or an average increase of 57 per cent.

Annual reports filed by warehousemen with the commission covering the years 1912 to 1917, inclusive, indicate that most of the companies realized a net profit each year. Many of the companies, however, are not limited to a strictly storage and handling business, but are engaged in other activities, such as the operation of bean cleaning and rice milling plants, wharves, drayage and public weighing, and it must therefore be assumed that the heavy losses incurred under the present warehouse labor service charge are recouped by the profits secured from the storage of commodities as distinguished from handling and from other activities engaged in.

Exhibits Nos. 7, 8 and 9 enter into a detailed analysis of the actual time consumed in receiving and delivering specific lots of merchandise.

Exhibit No. 7 shows that 4,444.25 tons of merchandise were received at different warehouses and consumed 159,569 minutes, or an average time per ton of 36 minutes for receiving at warehouse door, trucking into warehouse, and piling.

Exhibit No. 8 shows that it took 70,598 minutes to deliver 2,779.6 tons of merchandise, or an average of 25 minutes per ton, making a total expenditure of 61 minutes for receiving and delivering one ton of merchandise. This is the actual time consumed and does not include waste time of going on or coming off the different jobs, nor other loss in time during the day when men are idle or waiting for teams, or without work for other causes.

Exhibit No. 9, prepared at the Oriental Warehouse, San Francisco, covering the month of April and half the month of May, 1918, shows the

average cost per ton handled; that is, taking into the warehouse and bringing it out cost 44 cents and, as in other exhibits, the figures do not include a pro rata of extra charges to cover superintendence, employees' liability insurance, nor general office expenses.

These figures illustrate the fact that based on labor expenses of \$3.00 for nine hours, the warehouses are now receiving about 25 cents per ton for the performance of the service which costs them more than 40 cents. This charge does not cover actual out-of-pocket expense for the labor alone in performing the service, which under the present wage scale of \$3.00 for nine hours is 33 $\frac{1}{3}$  cents per hour, as it takes an average of one hour's time to handle one ton of freight.

It was conceded by the attorney for applicants, the representative of the San Francisco Chamber of Commerce and the witness on behalf of the Wholesale Grocers' Association that under existing conditions a wage of \$4.00 for a nine hour day was not excessive or unreasonable. Under the added expense due to increased wages, which admittedly must be granted by these applicants, the losses sustained under the present rates will be considerably increased.

The suggestion was made by Mr. Mann that inasmuch as labor costs since 1912, when the rates in question were first established, have changed from \$2.50 to \$4.00 per day, or 60 per cent, a horizontal increase in all labor charge rates should be correspondingly made. With this contention I can not agree, for the tariffs are not now constructed upon a uniform basis, but carry many inconsistencies. Cement pays 10 cents per ton, while cordage is assessed at 50 cents; baskets pay 10 cents per ton, while broom corn pays a 50 cent rate; cotton linters, handled in heavy packages, pay but 5 cents per ton, while iron safes are rated at 50 cents per ton. It will thus be seen that to increase rates by 60 per cent would place an added burden on commodities now paying rates apparently very much out of line.

As heretofore stated, general publicity was given of this hearing, but no effort was made on the part of patrons of these warehouses to present testimony and while it is of record that the grain dealers had given the matter some consideration and did not approve of changes in their rates, they put no witnesses on the stand to substantiate the position taken. Formal proceedings before this commission are for the specific purpose of securing, under oath, testimony for all interested parties. The commission must render its decisions in conformity with the pleadings and the sworn testimony and can not give effect in the opinion and order to informal complaints filed either before or after submission of the case, even if present before the opinion and order issues.



The exhibits and testimony in this proceeding clearly indicate these applicants are not receiving a sufficient amount for the handling and weighing of merchandise and I am therefore of the opinion that the proposed schedule of rates should be placed in effect, with the qualification that where any labor rates on a ton basis are in excess of 45 cents per ton they be reduced to 45 cents per ton. If after a fair test the rates authorized herein are not found to be equitable, under all existing conditions, the matter may be brought before the commission for further consideration.

I submit the following form of order:

#### ORDER.

The Associated Terminals Company, the Haslett Warehouse Company, the Hutton Warehouse, Peninsula Warehouse, San Francisco Warehouse Company, Sea Wall U. S. Bonded Warehouse, South End Warehouse Company, Vallejo Bonded and Free Warehouses, De Pue Warehouse Company, Turner-Whittell Warehouses, Natoma Warehouses, located at San Francisco, Lawrence Warehouse Company, Oakland and Sacramento, and Associated Terminals Company, Yolo County, having applied to this commission for an order authorizing increases in the rates assessed for labor charges, handling charges and weighing charges, and a public hearing having been held upon these applications and the commission being fully advised in the premises finds as a fact that the present rates for the class of service involved are unjust and unreasonable and that the rates herein authorized are just and reasonable.

*It is hereby ordered* that the above-named applicants be and they are hereby authorized to establish and file the following rates:

1. Seventy-five cents per hour per man for special labor in connection with the handling of commodities.
2. Forty-five cents per ton for handling commodities, with a minimum charge of 25 cents.
3. Thirty-five cents per ton for weighing commodities, with a minimum charge of 15 cents.
4. Thirty cents per ton for loading into cars packages weighing 150 pounds each, or less; 40 cents per ton for loading packages weighing in excess of 150 pounds into cars.
5. Twenty-five cents per ton for unloading cars containing packages weighing 150 pounds, or less; 32½ cents per ton for unloading cars containing packages exceeding 150 pounds in weight; the same charges to apply for loading or unloading gondola cars.
6. Seventy-five cents per hour for loading or unloading from cars iron, machinery and other heavy and bulky articles.
7. That the labor charge for repiling merchandise in warehouses be the same as the handling charge.

*It is further ordered*, that in Application No. 3722, the De Pue Warehouse Company be authorized to publish an item in its tariffs

providing for a charge of 25 cents per ton for handling commodities into and out of its warehouses at Williams, Berlin, Cortena, Corning, Delevan, Durham, Greenwood, Malton, Orland, Proberta and Tehama.

*It is further ordered* that tariffs containing these rates, rules and regulations found herein to be reasonable shall be filed with this commission to become effective within twenty (20) days from the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fifth day of May, 1918.

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DECISION No. 5428.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OR OF NOTES.

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Application No. 3506.

*Decided May 25, 1918.*

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BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Good cause appearing.

*It is hereby ordered* that condition 3 of the order in Decision No. 5281, dated April 5, 1918, be and the same is hereby amended so as to read:

“The collateral trust agreement under which applicant will issue the notes herein authorized or the notes issued pursuant to the authority herein granted, shall contain a provision authorizing East Bay Water Company to pay said notes at its option in lieu of cash in first mortgage bonds at not less than 92½ per cent of their face value, plus accrued interest, or in lieu thereof, East Bay Water Company shall conclude, in writing, before issuing notes, an agreement for the sale of so many of its first mortgage bonds at not less than 92½ per cent of their face value, plus accrued interest, as will produce the funds necessary to pay the notes issued.”

Dated at San Francisco, California, this twenty-fifth day of May, 1918.

## DECISION No. 5429.

IN THE MATTER OF THE APPLICATION OF ECONOMIC GAS COMPANY  
FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS  
OF THE PAR VALUE OF THREE HUNDRED THOUSAND DOLLARS.

Application No. 3372.

Decided May 25, 1918.

*Chickering & Gregory*, by *Allen Chickering*, for Applicant.  
*R. W. Kelly*, in *propria persona*.

EDGERTON, *Commissioner*.

## OPINION.

In this application, as amended at the hearing on March 27, 1918, Economic Gas Company asks authority to issue \$90,000.00 of its first mortgage 5 per cent gold bonds, payable December 31, 1939. The company proposes to sell the bonds at not less than 83½ per cent of their face value and use the proceeds to reimburse its treasury and to pay indebtedness incurred for the purpose of installing additions and betterments to its plant and system.

The testimony shows that applicant has sold \$479,000.00 of its bonds and pledged \$86,000.00, making a total of \$565,000.00 of bonds outstanding.

For the three year period ending December 31, 1917, applicant reports revenues and expenses as follows:

Account	1915	1916	1917
Operating revenues .....	\$186,183 91	\$211,455 73	\$236,248 61
Operating expenses .....	170,358 90	167,045 31	196,187 03
Net operating revenue.....	\$15,825 01	\$44,410 42	\$40,061 58
Additions—			
Miscellaneous interest revenues.....			
Gross corporate income.....	15,825 01	44,410 42	40,061 58
Deductions—			
Uncollectible bills .....	3,265 80	3,822 48	3,117 71
Miscellaneous nonoperating revenues.....			
Nonoperating taxes .....		202 50	115 50
Interest accrued on funded debt.....	15,150 00	15,150 00	19,034 68
Other interest .....	6,785 81	6,284 78	4,094 95
Amortization of debt discount and expense .....			686 22
Total deductions .....	\$25,201 61	\$25,459 76	\$27,049 09
Amount available for depreciation, dividends, etc. ....	*\$9,376 60	\$18,950 66	\$13,012 49

\*Loss.

In Exhibit "C" attached to the amended petition herein, applicant reports that from May 1, 1915, to August 31, 1917, it has expended for

additions and betterments the sum of \$215,454.02. This expenditure includes \$12,177.88 for a new gas holder. In Exhibit "D" attached to the amended petition herein, applicant estimates that it will have to expend \$59,930.37 additional to complete the holder, making a total expenditure of \$72,108.25. I believe that the proceeds realized from the sale of the bonds herein authorized to be issued should be used by applicant to reimburse its treasury for income expended or to pay indebtedness incurred for the purpose of building its new gas holder. Because of this conclusion it becomes unnecessary to analyze applicant's capital expenditures from May 1, 1915, to August 31, 1917, nor is it necessary to consider the protest filed by R. W. Kelly.

He admits that the company is in need of additional holder capacity and raises no objection to the use of the proceeds from the sale of the \$90,000.00 of bonds for that purpose.

I herewith submit the following form of order:

#### ORDER.

Economic Gas Company having applied to the Railroad Commission for authority to issue \$90,000.00 of bonds, a hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Economic Gas Company be and it is hereby granted authority to issue \$90,000.00 face value of its first mortgage 5 per cent gold bonds, payable December 31, 1939, subject to the following conditions:

1. The bonds herein authorized to be issued shall be sold by applicant for not less than 83½ per cent of their face value, plus accrued interest.

2. The proceeds realized from the sale of the bonds shall be used by applicant to reimburse its treasury for income expended or to pay indebtedness incurred for the purpose of constructing the gas holder referred to in Exhibit "D" attached to the amended petition herein.

3. Economic Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

5. The authority herein granted shall apply only to such bonds as may be issued on or before December 31, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fifth day of May, 1918.

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DECISION No. 5431.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY FOR AUTHORIZATION TO ISSUE PROMISSORY NOTES AND EXECUTE A COLLATERAL TRUST AGREEMENT AND TO PLEDGE BONDS THEREUNDER TO SECURE SAID NOTES.

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Application No. 3509.

*Decided May 25, 1918.*

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*John E. Behan*, for Applicant.

LOVELAND, *Commissioner*.

**FIRST SUPPLEMENTAL OPINION.**

On February 14, 1918, the Railroad Commission authorized Spring Valley Water Company to issue \$4,000,000.00 of two-year 6 per cent notes payable March 1, 1920, and to issue and pledge \$5,250,000.00 of its 4 per cent general mortgage bonds under a collateral trust agreement filed in this proceeding and marked applicants's "Exhibit No. 1."

On March 1, 1918, applicant issued \$3,300,000.00 of said notes and \$4,290,000.00 of said bonds. Subsequent to the issue of the notes, the question has been raised whether the notes constitute an increase in the bonded indebtedness of the company within the meaning of the constitution and section 359 of the Civil Code of the state of California. Because of the doubt in this matter, the company proposes to execute a new collateral trust agreement, a copy of which has been filed in this proceeding and marked applicant's "Exhibit No. 3," call in the notes issued and reissue them subject to the terms of the new agreement.

I herewith submit the following form of supplemental order:

**FIRST SUPPLEMENTAL ORDER.**

*It is hereby ordered* that the order in Decision No. 5127, dated February 14, 1918, be and the same is hereby amended so as to permit Spring Valley Water Company to execute a collateral trust agreement substantially in the same form as the collateral trust agreement filed with the Railroad Commission in this proceeding and marked "Exhibit No. 3," and to reissue the \$4,000,000.00 face value of two-year 6 per

cent notes payable March 1, 1920, and the \$5,250,000.00 of general mortgage 4 per cent bonds payable December 1, 1923, or in lieu thereof, issue \$4,000,000.00 face value of two-year 6 per cent notes payable March 1, 1920, and \$5,250,000.00 face value of its general mortgage 4 per cent bonds payable December 1, 1923.

*It is hereby further ordered* that the authority herein granted is subject to all the terms and conditions in the order in Decision No. 5127, dated February 14, 1918, except as such conditions are inconsistent with and are modified by this first supplemental order.

The foregoing first supplemental opinion and order are hereby approved and ordered filed as the first supplemental opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fifth day of May, 1918.

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#### DECISION No. 5432.

IN THE MATTER OF THE REORGANIZATION OF NORTHERN ELECTRIC RAILWAY COMPANY, NORTHERN ELECTRIC COMPANY, NORTHERN ELECTRIC RAILWAY COMPANY—MARYSVILLE AND COLUSA BRANCH, AND SACRAMENTO AND WOODLAND RAILROAD COMPANY AND OF THE APPLICATION FOR AUTHORITY TO TRANSFER THE PROPERTIES OF THE LAST-MENTIONED CORPORATIONS TO A NEW CORPORATION AND FOR PERMISSION TO ISSUE STOCKS AND BONDS OF THE SAID NEW CORPORATION.

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Application No. 1933.

*Decided May 25, 1918*

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REORGANIZATION—STOCKHOLDERS CONTROL OF PROPERTY.—(1) A plan of reorganization of the properties of the Northern Electric Railway system, now in receivership, discussed and approved with conditions.

(2) The commission expresses its disapproval of the policy of permitting bondholders to control the property but acquiesces in this feature of the plan since the stockholders voluntarily forfeited their rights.

*T. T. C. Gregory and Goodfellow, Eels, Moore & Orrick*, for railway companies.

*Frank D. Madison, O. K. Cushing, E. S. Heller and Walter D. Mansfield*, for the reorganization committee.

*Aaron L. Sapiro*, for A. Bornheim et al.

*C. F. Humphrey*, for certain creditors.

*Hiram Johnson, Jr.*, for Mrs. A. A. DeLigne.

EDGERTON and GORDON, *Commissioners*.

#### OPINION.

This application involves the sale and transfer of the so-called Northern Electric Railway properties operated by John P. Coghlan, receiver,

to a new corporation and the issue of stocks and bonds by said new corporation to pay for said properties, to pay reorganization expenses and for such other purposes as the Railroad Commission may authorize.

On October 5, 1914, the District Court of the United States, Northern District of California, in response to a bill of complaint filed by General Railway Signal Company, a New York corporation, appointed John P. Coghlan receiver of all the properties of the Northern Electric Railway Company and directed him to take possession of, manage and operate the properties. On March 1, 1915, upon a petition filed by the Sacramento and Woodland Railroad Company, Northern Electric Railway Company—Marysville and Colusa Branch, Northern Realty Company and Sacramento Terminal Company, the court made its order extending the receivership to all of the properties of the petitioning corporations. On or about April 16, 1918, the Southern Division of the United States District Court for the Northern District of California ordered all of the properties of the aforementioned railway companies to be sold. For a description of the properties to be sold and transferred reference is here made to the decree of foreclosure filed in this proceeding and marked "Applicants' Exhibit No. 12." The sale of the properties is to occur on May 28, 1918. The court has fixed the "upset price" at \$1,750,000.00. The court in its decree of foreclosure calls attention to the fact that the properties described in Article XIV of the decree have been operated as a unitary system, that certain of the railroad companies own no equipment, that said properties are indivisible and of such a nature and are so situated that the same should be sold as an entirety. We are fully in accord with the decree of the court in this regard and expect the new corporation to acquire all of the railway properties now in possession of and operated by John P. Coghlan as receiver. The testimony in this proceeding shows that this will be done and that the properties now owned by four or more corporations will hereafter be owned and operated by a single corporation.

The reorganization committee which has prepared the "Amended Northern Electric Reorganization Agreement," a copy of which has been filed in this proceeding, contemplates acquiring the properties at the foreclosure sale and transferring the same to a new corporation. The amended agreement provides that the new corporation will not assume any of the indebtedness of the present companies. The new corporation is to have an authorized stock issue of \$5,200,000.00, divided into \$1,902,200.00 of 6 per cent noncumulative first preferred, \$957,800.00 of 6 per cent noncumulative second preferred and \$2,340,000.00 of common. In addition, the new corporation is to have an authorized 5 per cent twenty-year bond issue of \$5,500,000.00, divided into \$2,012,400.00 of Class "A," \$951,200.00 of Class "B,"

\$1,268,200.00 of Class "C," and \$1,268,200.00 of Class "D" bonds. The interest on Class "A" bonds is to be a fixed charge on and after July 1, 1917; on Class "B" bonds on and after July 1, 1919; on Class "C" on and after July 1, 1922, and on Class "D" on and after July 1, 1927. Because of the delay in putting the amended reorganization plan into effect, Class "A" bonds will bear interest from July 1, 1918. Interest on moneys paid in for Class "A" bonds prior to July 1, 1918, will be paid by interest checks. All classes of bonds are to be on an equal footing as to lien and security.

Class "A" bonds are offered to such owners and holders of bonds, as agree to the amended reorganization plan, issued by Northern Electric Company, Sacramento and Woodland Railroad Company and Northern Electric Railway Company—Marysville and Colusa Branch, hereinafter referred to as the underlying bondholders; to owners and holders of bonds issued by Northern Electric Railway Company, hereinafter referred to as the overlying bondholders, and to the owners and holders of three-year secured gold notes. For each \$158.00 paid by the underlying bondholders, they will receive \$316.00 face value of Class "A" bonds; for each \$26.00 paid by the overlying bondholders, they will receive \$52.00 face value of Class "A" bonds, and for each \$17.34 paid by the owners of three-year gold notes, they will receive \$34.68 face value of Class "A" bonds. In addition to the payment of cash bonds must be surrendered in accordance with the plan.

The amended reorganization plan further provides that the classes of "B," "C" and "D" bonds and the first preferred stock of the new corporation shall be allotted approximately five-sixths to the underlying bondholders and one-sixth to the overlying bondholders. The second preferred stock shall be allotted to the overlying bondholders. Of the common stock, approximately \$1,300,000.00 par value shall be allotted to the overlying bondholders and an amount equal to 30 per cent of the unsecured notes and claims deposited with the reorganization committee shall be allotted to the unsecured creditors. Classes "B," "C" and "D" bonds and preferred and common stock distributed to the underlying and overlying bondholders shall be held in the same manner and for the same purposes in ownership or in pledge as the present bonds to be exchanged therefor are now held.

For each \$1,000.00 underlying bond deposited, the new corporation would issue:

Class "B" bonds or participation certificates in the sum of .....	\$150 00
Class "C" bonds or participation certificates in the sum of .....	200 00
Class "D" bonds or participation certificates in the sum of .....	200 00
First preferred stock or scrip of the par value of .....	300 00
Total .....	<hr/> \$850 00



For each \$1,000.00 overlying bond deposited, the new corporation would issue:

Class "B" bonds or participation certificates in the sum of .....	\$24 35
Class "C" bonds or participation certificates in the sum of .....	32 43
Class "D" bonds or participation certificates in the sum of .....	32 46
First preferred stock or scrip of the par value of .....	48 67
Second preferred stock or scrip of the par value of .....	147 08
Common stock or scrip of the par value of .....	207 30
Total .....	<u>\$492 32</u>

For each \$500.00 three-year gold note of Northern Electric Railway Company deposited, the new corporation would issue:

Class "B" bonds or participation certificates in the sum of .....	\$32 46
Class "C" bonds or participation certificates in the sum of .....	43 28
Class "D" bonds or participation certificates in the sum of .....	43 28
First preferred stock or scrip of the par value of .....	64 90
Second preferred stock or scrip of the par value of .....	196 10
Common stock or scrip of the par value of .....	276 40
Total .....	<u>\$656 42</u>

In addition, the new corporation would issue to the holders of unsecured notes of and claims against the Northern Electric Railway Company common stock equal in amount to 30 per cent of the face value of the unsecured notes or claims deposited under the amended reorganization plan.

In the supplemental petition filed April 30, 1918, in the above-entitled matter, applicants report that the following percentages of the total indebtedness held by secured and unsecured creditors referred to in the amended plan have assented to said plan:

- (a) 89.50 per cent in amount of Chico Electric Railway Company bondholders;
- (b) 96.47 per cent in amount of Northern Electric Railway Company bondholders;
- (c) 81.69 per cent in amount of Northern Electric Railway Company bondholders;
- (d) 94.26 per cent in amount of Sacramento and Woodland Railroad Company bondholders;
- (e) 95.46 per cent in amount of Northern Electric Railway Company--Marysville and Colusa Branch bondholders;
- (f) 95.55 per cent in amount of Northern Electric Railway Company three-year secured gold noteholders;
- (g) 96.88 per cent in amount of unsecured creditors.

The decree of foreclosure directs the reorganization committee to hold the amended plan open until the date of the confirmation of the sale of the properties, in order that any bondholder, noteholder, creditor or other person specified in the plan may deposit his securities or claims against the companies mentioned in the amended plan and become a party to the amended plan of reorganization by accepting and complying with the terms of said amended plan to the same effect as though he had assented thereto and become a party thereto within the time originally limited therein.

The testimony shows outstanding bonds, three-year gold notes and claims as follows:

*Bonds:*

Chico Electric Railway Company.....	\$11,000 00
Northern Electric Company .....	3,770,000 00
Sacramento and Woodland Railroad Company.....	750,000 00
Northern Electric Railway Company-- Marysville and Colusa Branch .....	750,000 00
Sacramento Terminal Company .....	150,000 00
Northern Electric Railway Company.....	6,256,000 00

*Three-year Secured Gold Notes:*

Northern Electric Railway Company.....	191,000 00
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*Unsecured Notes and Claims:*

Northern Electric Railway Company.....	2,939,329 82
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The payment of the Chico Electric and Sacramento Terminal bonds is taken care of by the decree of foreclosure.

Table No. "I" following shows how the stocks and bonds of the new corporation would be distributed assuming that all the owners and holders of bonds,—except Chico Electric and Sacramento Terminal bondholders, the holders of the three-year secured gold notes and of the unsecured notes and claims, deposit their securities and comply with the terms and conditions of the amended reorganization plan.

Table No. "I" shows that if all the bonds and the three-year secured gold notes of the present companies were deposited and the holders thereof complied with the amended plan, the corporation would realize \$1,004,151.88 from the issue of Class "A" bonds. Up to May 15, 1918, the amount of securities deposited call for the issue of \$1,881,474.20 of Class "A" bonds from which the company will realize \$940,737.10. Out of these proceeds, it is proposed to pay:

(a) Reorganization expenses:

Incurred or to be incurred, approximately.....	\$50,000 00
Secretary and reorganization committee.....	22,500 00
Attorneys for committee.....	25,000 00
Organization of new company and expenses incidental thereto including license, stamp and transfer taxes, estimated....	30,000 00
Depositories .....	15,000 00

Subtotal .....

(b) Approximate expenses as per decree for foreclosure:

Expenses of sale, compensation of master, costs of action, estimated .....	\$5,000 00
Receiver and his counsel fees, estimated.....	50,000 00
Trustees' fees .....	18,000 00
Fees of attorneys for trustees.....	18,000 00
To pay Sacramento Terminal Company bonds and accrued interest .....	182,000 00
To pay Vallejo Commercial Bank note secured by mortgage	14,710 48
To pay Chico Electric Railway Company bonds.....	8,000 00

\$295,710 48

(c) To pay bondholders not joining in the plan.....

\$87,731 49

(d) To pay interest on Class "A" bonds from April 1, 1918,  
to July 1, 1918.....

25,000 00

Grand total .....

\$550,941 97

Deducting from the \$550,941.97 the \$204,710.48 which the District Court ordered to be expended to pay the Sacramento Terminal Company bonds and accrued interest thereon, the Chico Electric Railway Company bonds and the note held by the Vallejo Commercial Bank, leaves \$346,231.49. Were all the bondholders to join in the amended plan the \$346,231.49 would be further reduced by the sum of \$87,731.49, the amount which it is estimated at present has to be paid to nonassenting bondholders, or to \$258,500.00. The interest estimated at \$25,000.00 on Class "A" bonds from April 1, 1918, to July 1, 1918, should be paid out of the current assets turned over to the new corporation by the receiver, leaving \$233,500.00 what may be termed reorganization expenses to be paid from the proceeds of Class "A" bonds. The evidence does not show that the reorganization expenses are unreasonable, but we believe that they should be amortized, as in the case of the reorganization of Peoples Water Company (Decision No. 4034, dated January 20, 1917, Vol. 12, Opinions and Orders of the Railroad Commission of California, p. 323).

The proceeds from Class "A" bonds remaining after the payment of reorganization expenses, court fees, trustees' fees and foreclosure expenses, it is proposed to expend for the acquisition of property and the construction of improvements, additions and betterments. The evidence does not show for what specific purposes the moneys will be expended. The order will, therefore, provide that the expenditures shall be incurred only for such purposes as the Railroad Commission may authorize in a supplemental order herein.

The engineering department of the Railroad Commission estimated the reproduction cost of the Northern Electric properties at \$10,324,788.00 and the reproduction cost less depreciation at \$9,154,905.00. A. S. Kibbe, consulting engineer for applicants, estimates the reproduction cost of the properties at approximately \$11,000,000.00 and the reproduction cost less depreciation at approximately \$10,000,000.00. Inasmuch as the amended reorganization plan provides for an issue of \$5,200,000.00 of stock and \$5,500,000.00 of bonds, the capitalization proposed can not be held unreasonable, provided the property can sustain the bond issue.

A. Sapiro, representing A. Bonnheim et al., objects to the amended reorganization plan on the ground that it provides for the issue of four classes of bonds, that it calls for an excessive bond issue and vests the control of the new corporation in the bondholders rather than in the stockholders through a voting trust and other arrangements. As already pointed out, the four classes of bonds are on an equal footing so far as security is concerned and differ only as to the date on which the interest becomes a fixed charge. The interest on Class "B" bonds becomes a fixed charge on July 1, 1919; on Class "C" bonds on July

1, 1922, and on Class "D" bonds on July 1, 1927. The issue of bonds in classes or series is not unusual and does not of necessity lead to

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that the stockholders should have all the power and control to which their ownership entitles them. We do not believe that bondholders

Deducting from the \$550,941.97 the \$204,710.48 which the District Court ordered to be expended to pay the Sacramento Terminal Company bonds and assumed interest thereon the CHS. M. & N. R. Co.

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is a fixed charge. The interest on Class "B" bonds  
charge on July 1, 1919; on Class "C" bonds on July

1, 1922, and on Class "D" bonds on July 1, 1927. The issue of bonds in classes or series is not unusual and does not of necessity lead to confusion. We certainly can not assume that an investor will purchase securities without some investigation and believe that a casual investigation would reveal the distinction between the classes of bonds which it is here proposed to issue.

Mr. Sapiro further contends that the earnings of the Northern Electric properties are inadequate to carry a \$5,500,000.00 bond issue. Assuming that all of the bonds are issued the interest requirements of the new corporation will be:

Interest payment January 1, 1919.....	\$50,310 00
Interest payment July 1, 1919.....	50,310 00
Interest payment for years from July 1, 1919, to July 1, 1922.....	148,180 00
Interest payment for years from July 1, 1922, to July 1, 1927.....	211,590 00
Interest payment for years after July 1, 1927.....	275,000 00

For the year ending December 31, 1917, the receiver for the Northern Electric properties reported revenues and expenses as follows:

Gross earnings .....	\$1,000,792 80
Operating expenses .....	776,907 70
Net operating revenue .....	\$224,785 10
Less taxes .....	45,091 37
Net income available for interest or other charges.....	\$179,693 73

A. S. Kibbe in applicants' Exhibit No. 10 estimates that the earnings of the company will be more than adequate to enable it to pay its interest when the same becomes a fixed charge. R. A. Sachse, chief engineer for the Railroad Commission, in the commission's Exhibit No. 5, reports that in his opinion the properties will be able to take care of the interest requirements, at least until July 1, 1922, if a normal rate of earning increase continues. While the earnings of these or any other properties can not be forecast with certainty, it appears to us that under an efficient and energetic management, the new corporation should be able to meet its proposed annual interest charge.

The amended plan provides that the new corporation shall have a board of directors consisting of 15 members, of whom for the first year 12 shall be selected by the bondholders and 3 by the stockholders. All the shares of stock, except those necessary to qualify directors, shall be deposited with the Union Trust Company of San Francisco under a voting trust agreement, said agreement to terminate on July 1, 1927, or earlier if the new corporation should pay interest on all of its outstanding bonds at the rate of 5 per cent per annum. This arrangement will vest the control of the new corporation in the bondholders. We believe that the stockholders should have all the power and control to which their ownership entitles them. We do not believe that bondholders

should be given rights of control which properly belong to stockholders. Stockholders should not be restricted in their complete enjoyment of all their usual rights. However, as they have seen fit to surrender their rights, the commission should not interpose any objection.

Neither the articles of incorporation nor the deed of trust of the new corporation have been filed with the Railroad Commission. Obviously, no final order can be made at this time in this proceeding. The commission can authorize the transfer of the properties and indicate the maximum amount of stock and bonds which it will permit a new corporation to issue for the purpose mentioned herein, a supplemental order or orders to be made when these matters are definitely presented to the Railroad Commission.

We herewith submit the following form of order:

#### ORDER.

Application having been made to the Railroad Commission for an order authorizing the sale and transfer of the Northern Electric properties about to be sold at foreclosure sale and for an order authorizing the issue of stocks and bonds, and a public hearing having been held,

*It is hereby ordered* that whosoever may be the purchaser of the properties of Northern Electric Company, Northern Electric Railway Company, Sacramento and Woodland Railroad Company, Northern Electric Railway Company—Marysville and Colusa Branch and Sacramento Terminal Company, now in receivership and about to be sold under a decree of foreclosure, be and the same is hereby authorized to sell, transfer and convey all of the properties, real, personal and mixed, described in the decree of foreclosure—Applicants' Exhibit No. 12—so purchased, to a corporation to be hereafter organized, and said corporation, when organized, is hereby authorized to acquire said properties and to issue in payment therefor, and for such other purposes as the Railroad Commission may authorize, 5 per cent twenty-year first mortgage bonds in an amount not to exceed \$5,500,000.00 and capital stock in an amount not to exceed \$5,200,000.00.

Provided, that this order shall not become effective until a supplemental order shall have been made by the Railroad Commission after there has been presented to the commission the name or names of the person or persons who may have purchased said properties at said foreclosure sale, the articles of incorporation and trust deed of the corporation hereafter to be organized to acquire said properties, a complete description of the properties acquired at said foreclosure sale and to be transferred to said new corporation, together with a statement showing the amount of money received at the foreclosure sale.

Provided, further, that none of the moneys realized from Class "A" bonds shall be expended until a supplemental order or orders have been

made by the Railroad Commission specifying the purposes for which said moneys may be expended.

Provided, further, that this order shall not become effective until there has been filed by a person or persons properly authorized a stipulation to be approved by the commission, to the effect that the reorganization expenses will, at such times, in such amounts and in such manner as the Railroad Commission may order, be amortized out of income.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fifth day of May, 1918.

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DECISION No. 5433.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING FILING OF CERTAIN SCHEDULES OF RATES FOR SERVICE IN THE CITY OF SAN BERNARDINO.

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Application No. 3728.

*Decided May 25, 1918.*  
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BY THE COMMISSION.

**ORDER.**

Whereas Southern California Edison Company has filed with this commission its Application No. 3728 to withdraw its existing domestic and commercial lighting schedule applicable in the city of San Bernardino and to make effective in place thereof the revised schedule as set forth in this order, which will result in a reduction in rates to residence and large commercial lighting consumers, and good cause appearing that the same should be authorized,

*It is hereby ordered* that California Edison Company be and the same is hereby authorized to file and make effective for domestic and commercial lighting service in the city of San Bernardino the following schedule:

*Rates for Service in the City of San Bernardino.*

*Standard Block Schedule.*

First	100 kilowatt hours per month.....	7	cents per kilowatt hour
Next	200 kilowatt hours per month.....	6½	cents per kilowatt hour
Next	200 kilowatt hours per month.....	6	cents per kilowatt hour
Next	500 kilowatt hours per month.....	5½	cents per kilowatt hour
Next	1,000 kilowatt hours per month.....	5	cents per kilowatt hour
Next	1,500 kilowatt hours per month.....	4	cents per kilowatt hour
Next	2,000 kilowatt hours per month.....	3	cents per kilowatt hour
All energy used in excess of 5,000 kilowatt hours			
per month.....		2½	cents per kilowatt hour
Minimum monthly bill, 75 cents.			



*It is hereby further ordered* that Southern California Edison Company be and the same is hereby authorized;

(1) To withdraw Schedules "L-M" and "L-T," being the schedules for lighting service of Pacific Light and Power Corporation for the city of San Bernardino as set forth in the schedules on file with the commission.

(2) To continue as deviations such consumers whose rates would be increased by the revised standard schedule above listed, until such time as such consumers discontinue service, or until ordered otherwise by this commission.

Dated at San Francisco, California, this twenty-fifth day of May, 1918.

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DECISION No. 5434.

IN THE MATTER OF THE SOUTHERN SIERRAS POWER COMPANY FOR AN ORDER AUTHORIZING THE FILING OF CERTAIN SCHEDULES OF RATES FOR LIGHTING SERVICE IN THE CITY OF SAN BERNARDINO.

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Application No. 3729.

*Decided May 25, 1918.*

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BY THE COMMISSION.

**ORDER.**

Whereas The Southern Sierras Power Company has filed with this commission its Application No. 3729 to withdraw its existing domestic and commercial lighting schedule applicable in the city of San Bernardino and to make effective in place thereof the revised schedule as set forth in this order, which will result in a reduction in rates to residence and large commercial lighting consumers, and good cause appearing that the same should be authorized,

*It is hereby ordered* that The Southern Sierras Power Company be and the same is hereby authorized to file and make effective for domestic and commercial lighting service in the city of San Bernardino the following schedule:

*Rates for Service in the City of San Bernardino.*

STANDARD BLOCK SCHEDULE.

First	100 kilowatt hours per month.....	7	cents per kilowatt hour
Next	200 kilowatt hours per month.....	6½	cents per kilowatt hour
Next	200 kilowatt hours per month.....	6	cents per kilowatt hour
Next	500 kilowatt hours per month.....	5½	cents per kilowatt hour
Next	1,000 kilowatt hours per month.....	5	cents per kilowatt hour
Next	1,000 kilowatt hours per month.....	4	cents per kilowatt hour
Next	2,000 kilowatt hours per month.....	3	cents per kilowatt hour
All energy used in excess of 5,000 kilowatt hours			
per month .....		2½	cents per kilowatt hour
Minimum monthly bill, 75 cents.			

*It is hereby further ordered* that The Southern Sierras Power Company be and the same is hereby authorized:

(1) To withdraw its lighting Schedule "A" for lighting service in the city of San Bernardino as set forth in the schedules on file with the commission.

(2) To continue as deviations such consumers whose rates would be increased by the revised standard schedule above listed, until such time as such consumers discontinue service, or until ordered otherwise by this commission.

Dated at San Francisco, California, this twenty-fifth day of May, 1918.

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DECISION No. 5437.

IN THE MATTER OF THE APPLICATION OF PETALUMA AND SANTA ROSA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE RENEWAL OF NOTES.

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Application No. 5776.

*Decided May 27, 1918.*

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*H. Von Emster*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Petaluma and Santa Rosa Railway Company in its amended petition herein asks authority to issue notes having an aggregate face value of \$59,600.00 and \$80,000.00 of its first mortgage bonds. It desires authority to pledge the bonds to secure the payment of the \$59,600.00 of notes.

A hearing in this application was held before Examiner Westover at San Francisco on May 25, 1918.

By Decision No. 541, dated April 1, 1913 (Vol. 2, Opinions and Orders of the Railroad Commission, p. 537), the Railroad Commission authorized the Petaluma and Santa Rosa Railway Company to issue \$64,000.00 face value notes and \$80,000.00 of first mortgage 5 per cent twenty-year bonds, said bonds to be pledged as collateral security in payment for the notes.

Applicant reports that pursuant to the authority granted in said decision, it issued the following notes:

Payee	Date	Term	Interest (per cent)	Face amount
Sonoma County National Bank.....	May 29, 1913	1 year	6	\$32,000 00
American National Bank.....	Apr. 5, 1913	Demand	6	20,000 00
American National Bank.....	May 27, 1913	Demand	6	6,000 00
American National Bank.....	May 27, 1913	Demand	6	6,000 00
Total .....				\$64,000 00

The sum of \$4,400.00 has been paid on the American National Bank note dated April 5, 1913, and the note transferred to the First Savings Bank of Oakland. One of the American National Bank notes of March 27, 1913, has been transferred to Sarah L. Coffin. All three of the notes originally issued to American National Bank have been renewed without authority from the Railroad Commission. The testimony shows that the notes were not renewed with an intent to evade the Public Utilities Act, but through inadvertence and ignorance of the provision of the act.

The moneys obtained through the issue of the original \$64,000.00 of notes were used to extend applicant's line of railway from Liberty Station, Sonoma County, to Two Rock.

Applicant reports that a large majority of its stock and bondholders have approved a reorganization plan, which if finally put into effect, will enable it to pay off all the notes it now desires to issue. Because of the statute of limitations, it becomes necessary to renew the notes so as to maintain applicant's status quo.

#### ORDER.

Petaluma and Santa Rosa Railway Company having applied to the Railroad Commission for authority to issue notes and bonds, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of said notes is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Petaluma and Santa Rosa Railway Company be and it is hereby granted authority to issue \$59,600.00 face value of 6 per cent notes and to issue and pledge as collateral security for said notes, \$80,000.00 of its first mortgage 5 per cent twenty-year bonds, upon the following conditions and not otherwise:

(1) The notes herein authorized shall be issued to the following persons for the purpose or refunding the indebtedness for the following terms, at the following rates of interest and to be secured by the following bonds:

Payee	Term	Interest (per cent)	Face value of notes	Serial number of bonds pledged
Sonoma County National Bank.....	1 year	6	\$32,000	791-830
First Savings Bank of Oakland.....	Demand	6	15,000	751-774
American National Bank.....	Demand	6	6,000	775-782
Sarah L. Coffin.....	Demand	6	6,000	783-790

(2) Upon the payment of the notes herein authorized to be issued, or any of them, the bonds pledged to secure the payment of said note or notes shall be returned to applicant's treasury and thereafter issued only as authorized by the Railroad Commission.

(3) Petaluma and Santa Rosa Railway Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the issue of the notes and bonds herein authorized and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted shall apply only to such notes and bonds as may be issued on or before October 1, 1918.

Dated at San Francisco, California, this twenty-seventh day of May, 1918.

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DECISION No. 5439.

CHAMBER OF COMMERCE OF THE CITY OF SAN LEANDRO

*vs.*

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 785.

CITY OF RICHMOND

*vs.*

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 990.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER INCREASING GAS RATES IN HAYWARD AND VICINITY.

Application No. 3092.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO INCREASE ITS RATES AND CHARGES FOR GAS FURNISHED TO ITS CONSUMERS IN CERTAIN DISTRICTS.

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Application No. 3248.

*Decided May 28, 1918.*

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**GAS RATES—SURCHARGE—INCREASE IN UNREGULATED PRICE OF OIL.**—(1) In these proceedings fixing the gas rates for all the territory served by Pacific Gas and Electric Company outside the city and county of San Francisco other than the wholesale service of gas to the city of Palo Alto the commission finds that the company is confronted with a financial emergency due chiefly to the increased price of oil.

- (2) The price of oil, which is absolutely essential to the manufacture of gas, has not been subjected to regulation by any public authority. The Railroad Commission has no jurisdiction over the price of this commodity and is accordingly powerless to prevent an increase of rates to take care of the increased price of oil if the financial stability of the utility is to be maintained in accordance with the policy of the federal administration as expressed by the President of the United States, the Secretary of the Treasury and the Comptroller of the Currency.
- (3) The commission fixes normal gas rates and also a surcharge, which surcharge is to take care of the emergency increase but can be varied as conditions require.
- (4) The annual depreciation allowances claimed by the utility for its several gas properties are found to be in excess of proper and reasonable annual depreciation allowances when compared with those heretofore found to be reasonable for similar properties.

*Charles P. Cutton*, for Pacific Gas and Electric Company.

*B. D. Marx Greene*, as general counsel for city of Alameda, city of Albany, city of Berkeley, town of Colusa, city of Daly City, city of Fresno, city of Grass Valley, town of Hayward, town of Los Gatos, city of Marysville, city of Napa, town of Nevada City, city of Oroville, city of Richmond, city of Sacramento, town of San Bruno, city of San Jose, city of San Leandro, city of San Mateo, city of San Rafael, city of Santa Rosa, town of Sebastopol, city of South San Francisco, city of Woodland.

*A. F. St. Sure*, city attorney, for county of Alameda.

*Leon Clark*, city attorney, for city of Albany.

*Frank D. Stringham*, city attorney, for city of Berkeley.

*John F. Davis*, city attorney, for city of Burlingame.

*Thomas Rutledge*, town attorney, for town of Colusa.

*George Appell*, city attorney, for city of Daly City.

*H. J. Wildgrube*, city attorney, for city of El Cerrito.

*E. H. Armstrong*, city attorney, for city of Grass Valley.

*G. William White*, town attorney, for town of Hayward.

*D. J. Jenkins*, town attorney, for town of Los Gatos.

*W. P. Rich*, city attorney, for city of Marysville.

*Wallace Rutherford*, city attorney, for city of Napa.

*J. C. Lindley*, town attorney, for town of Nevada City.

*John J. Earle* and *R. R. Waterbury*, deputy city attorneys, for city of Oakland.

*J. A. McGregor*, city attorney, for city of Oroville.

*Albert Mansfield*, city attorney, for Redwood City.

*D. J. Hall*, city attorney, for city of Richmond.

*Archibald Yell*, city attorney, for city of Sacramento.

*Mason & Locke*, town attorneys, for town of San Bruno.

*Earl Lamb*, city attorney, for city of San Jose.

*Harris P. Jones*, city attorney, for city of San Leandro.

*J. W. Dignan*, for Chamber of Commerce of the city of San Leandro.

*Chas. W. Kirkbride*, city attorney, for city of San Mateo.

*Henry Greer*, city attorney, for city of San Rafael.

*Joseph P. Berry*, city attorney, for city of Santa Rosa.

*J. W. Colebred*, city attorney, for city of South San Francisco.

*J. H. O'Leary*, city attorney, for city of Vallejo.

*Ncal Chambers*, city attorney, for city of Woodland.

*H. J. Boke* and *P. Peterson*, for certain taxpayers and members of the Commutation Association of the city of Napa.

EDGERTON and DEVLIN, *Commissioners*.

#### OPINION.

These proceedings together involve the fixing of just and reasonable gas rates for all the territory served by the Pacific Gas and Electric Company outside of the city and county of San Francisco, other than for wholesale service of gas to the city of Palo Alto.

There is here presented an emergency in the financial condition of the company. The marked and sudden increases in the costs of producing and distributing gas have resulted in such a diminution of the net income of the company as to seriously embarrass it unless relief is had through an increase of rates. These increases in costs have been wholly beyond the control of the company.

The principal item is oil used in the manufacture of gas. The price of this commodity is unregulated and apparently advances in price are made at the option of the large oil producers. These large producers will make no contracts at fixed prices for oil; hence gas companies such as applicant are unable to avoid paying whatever price is demanded.

This oil is absolutely essential to the manufacture of gas and as the producers of the oil increase their price, gas companies must either suffer the loss caused thereby or rates paid by consumers of gas must be increased.

The gas companies can not absorb this extra cost and remain sound financial institutions capable of properly serving the public. Therefore this commission has no choice other than to place this additional burden upon consumers.

We suggest that while it is now possible to increase rates to take care of the mounting costs of producing gas and still fix rates which are possible for consumers to pay and continue the use of gas, nevertheless it is easily possible that unless steps be taken to regulate the price of oil we may be confronted with a condition where gas rates can no longer be substantially increased and the companies will be left in a condition of serious financial jeopardy.

Wages of employees have been increased and may be increased still further. This is to be expected because the cost of living has increased to such a marked extent that the managements of utility companies can

not and should not refuse reasonable increases of wages to meet living conditions, as well as to meet competitive labor conditions.

The cost of practically all materials used in the manufacture and distribution of gas have increased and there is no assurance that still further increases will not be made.

The above considerations clearly establish this application as an emergency proceeding. The war has produced abnormal business conditions which affect the business of producing and distributing gas as it has affected all other business and where the utility service is under regulation and the prices at which the service is sold to the public is dictated by public authority the companies are helpless, unless public authority will extend prompt relief.

Entirely aside from the question of justice and fairness to the owners of these utility properties, it is seriously to be considered that, unless the public utility companies are maintained in a reasonably sound financial condition, they will no longer be able to serve the public efficiently, as it is a demonstrated fact that a weak and staggering company is incapable of producing good service.

Furthermore, it is not only sound public policy for regulatory bodies, but it is the emphatically declared policy of the federal administration that as far as possible business institutions be not allowed to go into bankruptcy, thus seriously disturbing the financial fabric of the country.

The President of the United States, the Secretary of the Treasury, and the Comptroller of the Currency has each spoken clearly and definitely on this subject, and we believe that this commission, having ample information, should without hesitation place the utility rates on such a basis as to properly safeguard the financial stability of public utility companies that they may not fail in their service to the public and become a menace to the finances of the country, having in mind, of course, the reasonable capitalization of companies.

Having in mind these considerations, we have in this proceeding established what may be called for this purpose the normal rates and have imposed thereon a distinct and separate surcharge. This surcharge represents as nearly as may be the abnormally increased costs of operation. This will permit from time to time, as it may become necessary, either the decrease or increase of this surcharge to meet conditions as they arise. If costs increase this may be reflected in a larger surcharge. If, on the other hand, costs decrease this likewise may be reflected in a decrease of the surcharge. By this method we believe there is established a flexible scheme for promptly meeting changing conditions of cost without the necessity of constantly changing all of the rates.

The surcharge herein fixed has also been applied to the gas rates in San Francisco as provided in an order this day made in Application

No. 5742. We recommend that the surcharge statement be printed separately and distinctly on each consumer's gas bill in the following language:

"Authorized added charge to meet war conditions."

This will enable the consumer to readily distinguish between what may be termed the normal rate and the additional charge caused by the war emergency.

The extent of the company's gas business in the several districts is shown in Table I herewith. This gives statistics of the number of consumers served with gas on December 31, 1917, the sales of gas for the year 1917 in thousands of cubic feet, the amount of oil used in gas manufacture in barrels, and the gross revenue for the year 1917, for each district.

TABLE I.

*Pacific Gas and Electric Company Statistics of Gas Operations, Year of 1917.*

District	Consumers, end of year	Sales of gas for year in M cu. ft.	Barrels of oil used in gas manu- facture	Gross revenue
Alameda County -----	73,692	2,520,670	557,682	\$2,285,109
Chico -----	1,571	27,254	8,897	38,708
Colusa -----	450	11,681	8,731	16,133
Fresno -----	8,266	254,686	60,357	282,679
Marin -----	2,656	69,705	18,106	95,704
Marysville -----	1,540	35,447	9,149	48,713
Oroville -----	858	11,323	3,328	16,485
Napa -----	1,117	25,499	7,585	35,844
Nevada -----	1,126	18,114	6,054	26,819
Redwood* -----	5,110	183,119	†	201,389
Sacramento -----	12,070	307,431	73,064	202,396
San Jose -----	10,118	275,793	63,800	269,572
Los Gatos -----	460	8,729	2,991	13,548
Santa Rosa-Petaluma -----	3,751	77,991	21,759	106,861
Vallejo -----	3,239	71,115	18,895	99,616
Yolo -----	1,000	22,569	6,768	31,923
Totals -----	137,701	3,931,029	860,036	\$3,871,503

\*Exclusive of wholesale service to city of Palo Alto.

†Gas manufactured at San Francisco plant.

The existing rates of the company for the localities affected are set forth in the schedules now on file with this commission.

Since September, 1916, conditions existing in the company's gas business have been materially modified, resulting in a reduction in its net income following substantial increases in the cost of all materials used in the construction and operation of its gas properties, in wages paid to employees in both the construction and operating departments, in the cost of oil used in gas manufacture, and in taxes. Prior to October 1, 1916, the company purchased its oil under terms of a contract



which provided it with oil at a cost of 68.5 cents delivered in Oakland and San Francisco, with differentials increasing with the freight charges between San Francisco and other points at which its gas manufacturing plants are located. These prices held up to and including September 30, 1916. From this date, the company paid and now is required to pay under the terms of said contract a varying price for oil, depending upon the cost of oil in the fields, plus a commission to the gathering company, and a pipe line transportation charge to tidewater, and in addition freight charges to other points. As a result, the company was paying during the early part of the year 1918 approximately \$1.35 for oil at San Francisco and Oakland, and prices in excess of this at other points on its system. Effective during the month of May, 1918, the price of oil has been further advanced, and the Pacific Gas and Electric Company has filed, in evidence, notice of this increase. This brings the base price of oil up to \$1.62 per barrel at tidewater with corresponding increases to other points.

Table II herewith shows the prices of oil per barrel at the company's manufacturing plants for the period 1911-1916, and the present price at these same points. The cost of oil used by the company for gas manufacture in the districts herein considered has increased approximately 130 per cent in less than two years.

TABLE II.

*Pacific Gas and Electric Company Comparison of Cost of Oil Used in Gas Manufacture.*

Plant	Cost per barrel	
	Period 1911-1916	After May, 1918
Oakland -----	\$0.685	\$1.620
Chico -----	.955	1.800
Colusa -----	1.225	1.970
Fresno -----	.755	1.670
San Rafael -----	.745	1.680
Marysville -----	.875	1.770
Oroville -----	1.110	1.970
Napa -----	.745	1.680
Nevada -----	1.110	2.270
Sacramento -----	.835	1.770
San Francisco* -----	.685	1.620
San Jose -----	.795	1.762
Los Gatos -----	.910	1.800
Santa Rosa -----	.865	1.790
Vallejo -----	.745	1.680
Woodland -----	.875	1.770

\*Gas sold in Redwood district manufactured at San Francisco plant.

The oil situation in California is well known to this commission and to the public, and the conditions incidental thereto have resulted in a

radical increase in the cost of the operation of all public utilities using oil, ether for gas manufacture or for electric generating purposes. For every thousand cubic feet of gas sold, from nine to fifteen gallons of oil are used, depending upon the size and efficiency of operation of the plant, and in general, the cost of oil is by far the largest single item in the cost of gas manufacture.

The evidence also clearly established the fact that the company has been compelled to meet a very large increase in operating expenses, entirely beyond its control, which in all the territory herein considered has materially reduced the net income of the company. There is no doubt that, under such conditions a part of the added burden of the cost of operation of the company's plants and system should be borne by the consumers in the form of increased rates.

In several of the districts included in this proceeding, the commission has heretofore passed upon the question of gas rates and has, in several instances, made findings of the value of the properties used and useful in the service of gas in these districts.

The value of the properties used in the service of gas in the Vallejo district, as of January 1, 1915, is set forth in Decision No. 2444, Case No. 638, decided June 4, 1915. The value of the properties in the Marin district, as of June 30, 1914, is set forth in Decision No. 2460, Case No. 544, decided June 7, 1915. In Decision No. 2530, Case No. 665, decided June 26, 1915, no finding of the value of the properties of the company used in the service of gas in Los Gatos was made, but there is in evidence in this proceeding valuations by both the company's and the commission's engineers, as of December 31, 1914. In Decision No. 2572, Case No. 478, decided July 8, 1915, the commission made its findings of the value of the property of the company used in the service of gas in the city of San Jose and suburbs, as of December 31, 1913. In Decision No. 4039, Case No. 734 and No. 935 and Application No. 2419, decided January 20, 1917, the commission reviewed the gas rates in the Petaluma and Santa Rosa districts of the company, and the evidence in these proceedings includes the valuations made both by the company and by the commission's engineering department.

It was agreed in the hearings herein that the evidence submitted in these earlier proceedings be considered as part of the record of the matter now before us.

There is also before the commission in this proceeding a valuation of the Sacramento gas properties of the company, made by Mr. E. C. Jones, which has been reviewed by the commission's engineering staff.

In Cases No. 785 and No. 990 and Application No. 3092, a joint valuation of the generating and transmission properties of the com-

pany in the Alameda County district was made by Mr. E. C. Jones, representing the company, and Mr. G. S. Jacobs, representing the commission's gas and electric department, which also included the distribution properties in San Leandro, Hayward and contiguous territory and in the city of Richmond and suburbs.

For all properties located in the other cities and towns included in these proceedings, the company has submitted the valuations made by J. C. White Engineering Corporation, as of December 31, 1911, and has filed in evidence statements showing the net additions and betterments according to its books in all these districts, from the dates of former valuations up to, and including, the net additions and betterments for the year ending December 31, 1917.

In addition to the above, the company has submitted evidence as to the value of its lands used in gas operations, of the general capital of the company prorated to the gas department, and estimates of working capital and materials and supplies for the year ending August 31, 1918.

There is before us, therefore, sufficient evidence to fix the valuations of the properties for the purposes of these proceedings. This data has been on file with the commission for a considerable period, during which time many checks have been made by the engineering department, and comparisons made with other costs of similar properties elsewhere in the state of California, and we feel satisfied that for the purposes of this proceeding alone, findings of valuation can be made as a basis for comparing the return to the company in its several districts under existing rates, and under the rates hereinafter fixed.

From a review of the evidence submitted, covering the value of the properties, we find as a fact that the value of the properties used and useful in the service of gas in the several districts of the company, which represent equitable rate bases for the year 1918, and which represent further reasonable valuations for the purposes of comparing earnings under the existing rates, with earnings under the rates hereinafter fixed are the amounts set forth in Table III herein. These include the value of lands, generating capital, transmission capital, distribution capital and a pro rata of general capital to the gas department, material and supplies and working cash capital. It should be understood that in using these rate bases we do not pass finally upon the fair value of the gas properties of the company in its several districts.

TABLE III.

*Pacific Gas and Electric Company, Gas Department, Rate Bases for the Year 1918.*

District	Rate base
Alameda County .....	\$7,416,218
Chico .....	192,789
Colusa .....	72,599
Fresno .....	1,111,169
Marin .....	385,149
Marysville .....	189,478
Oroville .....	169,310
Napa .....	151,651
Nevada .....	115,125
Redwood .....	*742,140
Sacramento .....	1,686,600
San Jose .....	1,012,271
Los Gatos .....	59,810
Santa Rosa-Petaluma .....	510,807
Vallejo .....	316,501
Yolo .....	114,901
<b>Total .....</b>	<b>\$14,186,518</b>

\*Excludes pro rata of capital used in service of gas at wholesale to city of Palo Alto. The total rate base for Redwood district is \$847,367.

It will not be necessary for the purpose of these proceedings to specify with exactness the allowances for depreciation annuity upon the properties of the company in its several districts. We shall make no separate findings as to the proper depreciation allowances upon the several properties herein considered, but for the purpose of showing the comparable returns under existing rates and under the rates hereinafter fixed, we shall consider the net income of the company from its operations in the several districts, inclusive of depreciation, and in the fixing of rates we shall endeavor to provide the company a compensatory net income that will cover both return on its investment and depreciation. We desire to point out, however, at this time that the annual depreciation allowances claimed by the company for its several gas properties herein are in excess of proper and reasonable annual depreciation allowances when compared with the depreciation allowances heretofore found by this commission for similar properties.

The company, in its original application, asked that the commission authorize it to manufacture and distribute gas of an average quality of 550 B.t.u. per cubic foot, and stated in support of this claim that a gas of this heating value was most economical from the standpoint of the cost of production, and most efficient from the standpoint of the consumer's use. The company did not submit evidence to show the existing quality of gas served in its several districts, and we are consequently unable to determine what, if any, changes should be made in service standards.

The rates hereinafter fixed are, therefore, based upon the existing quality of gas, both as to heating contents and pressure that may have been provided for in the several districts by local legislation, or by the standards of the company as set forth in its rules and regulations for gas service now on file with this commission.

The commission's gas and electric department has made a complete analysis of the sales of gas, the revenue to be obtained therefrom, and the costs of operation of the company's properties in its several districts, and has deduced therefrom the net revenue that would accrue to the company, (1) under existing rates; (2) under the rates hereinafter fixed. These estimates take cognizance of the growth of the business in the year 1918 over the business of the year 1917, with the corresponding increases in operating costs to take care of such increased business. Further allowances have been made for the increased cost of materials and labor entering into the maintenance and operation of the company's properties, for the increased cost of oil used in gas manufacture including the latest raise of May, 1918, and for the higher tax rates now in effect.

The revenues for the estimated business of the year 1918, under existing rates and under the rates hereinafter fixed, have been computed upon the basis of the probable sales of gas and the probable number of consumers taking service in this period.

Operating expenses, as considered herein, include the maintenance of generating, transmission and distribution expenses; electrical energy used in gas plant operation; a pro rata of the general administrative expenses of the company based upon the gross revenue of the several districts; and an allowance for fire and casualty insurance and uncollectible accounts and taxes, to which has been added the cost of oil used in gas manufacture based upon the average efficiency of the gas manufacturing plants in the several districts.

The gross revenues, operating expenses, and net revenues available for depreciation and return for the several districts of the company, both under existing rates and under the rates hereinafter fixed are shown in Table IV.

TABLE IV.

*Pacific Gas and Electric Company, Gas Department - Gross and Net Revenue.*

	Under existing rates			Under rates hereinafter fixed		
	Gross revenue	Operating expenses	Net revenue	Gross revenue	Operating expenses	Net revenue
Alameda County .....	\$2,356,252	\$1,769,666	\$586,586	\$2,623,026	\$1,787,274	\$835,752
Chico .....	40,540	32,076	8,464	48,543	32,695	15,948
Colusa .....	16,705	15,195	1,510	19,762	15,393	4,369
Fresno .....	309,662	219,303	90,359	338,400	221,199	117,201
Marin .....	107,918	78,508	29,410	121,011	79,374	41,637
Marysville .....	49,194	36,826	12,368	58,119	37,437	21,012
Oroville .....	29,973	23,522	5,551	33,182	23,793	9,389
Napa .....	57,240	32,508	4,732	66,442	33,089	12,953
Nevada .....	27,604	27,918	434	33,124	28,282	4,842
Redwood* .....	228,110	197,781	30,359	257,898	199,745	58,153
Sacramento .....	314,752	268,776	45,976	309,183	274,348	12,835
San Jose .....	281,804	226,877	54,927	311,747	230,833	110,914
Los Gatos .....	14,667	13,270	1,397	17,515	13,478	4,037
Santa Rosa-Petaluma ..	109,198	91,567	17,631	129,960	92,879	37,111
Vallejo .....	116,019	91,251	24,768	125,705	91,891	33,814
Yolo .....	31,541	28,573	2,968	37,369	28,957	8,412
<b>Totals .....</b>	<b>\$1,070,349</b>	<b>\$3,153,557</b>	<b>\$916,752</b>	<b>\$1,630,916</b>	<b>\$3,190,557</b>	<b>\$1,140,259</b>

\*Exclusive of whole sale service to city of Palo Alto.

†Deficit.

We find that the revenue that the company will derive from existing rates for gas in all territory outside of the city and county of San Francisco, excepting wholesale service in the city of Palo Alto will not provide the company an adequate return after the deduction of all proper operating expenses, and to this extent and in so far as they differ from the rates hereinafter fixed, the existing rates are not just, fair and reasonable rates, and we are further of the opinion that the rates applicable to the territory served should be modified to the extent that they will provide the company with greater net income to offset the increased costs of operation under present conditions.

From a complete analysis of the cost and conditions of service in the several districts of the company we recommend the rates set forth in Table V herein, known as rates "A" and "H," inclusive. We find as a fact that the rates set forth herein as rates "A" to "H," inclusive, are fair, just and reasonable rates for gas service in the localities specified in the respective rate schedules of Table V. As will be noted, each of these rate schedules is divided into a base rate and a surcharge; the first represents the normal reasonable rate under the conditions that existed at the time these proceedings were closed, while the surcharge represents the addition necessary to meet the emergency conditions that have subsequently arisen.

The rates set forth in the order herein as rates "A" to "H," inclusive, will increase the gross revenue of the company in all of its gas districts

outside of San Francisco, excluding wholesale service to the city of Palo Alto, by the sum of \$560,607.00 and will increase the net revenue by the sum of \$523,607.00 over and above that which the company would obtain under existing rates, and will further provide the company with a total net income available for depreciation and return in all of its gas districts outside of San Francisco and excluding wholesale service to the city of Palo Alto, of the sum of \$1,440,359.00 which we estimate will provide a net return exclusive of depreciation of approximately 8 per cent. As far as gas revenue in the territory affected this will enable the company to pay its fixed interest and other necessary charges.

We submit the following form of order:

#### ORDER.

Public hearings have been held in the above-entitled proceedings, these matters having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates charged by Pacific Gas and Electric Company for gas sold in all of its territory outside of the city and county of San Francisco, exclusive of wholesale service to the city of Palo Alto, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates.

Basing its order upon the foregoing findings of fact and on the other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the Pacific Gas and Electric Company be and is hereby authorized to charge and collect for gas the rates set forth in the following schedules for the territories therein indicated for all meter readings taken on and after the tenth day of June, 1918; provided, the Pacific Gas and Electric Company shall, within ten days of the date of this order, file with the Railroad Commission the rates set forth herein as rates "A" to "H," inclusive:

#### TABLE V.

##### RATE "A."

On the basis of monthly consumption per meter.

##### Base rate:

90 cents per 1,000 cubic feet for the first	10,000 cubic feet.
80 cents per 1,000 cubic feet for the next	20,000 cubic feet.
75 cents per 1,000 cubic feet for the next	40,000 cubic feet.
70 cents per 1,000 cubic feet for the next	80,000 cubic feet.
65 cents per 1,000 cubic feet for the next	150,000 cubic feet.
60 cents per 1,000 cubic feet for all over	300,000 cubic feet.

Minimum charge per meter per month, 50 cents.

##### Surcharge:

In addition to the above, a surcharge of 10 cents per 1,000 cubic feet for all gas consumed.

#### TERRITORY.

This rate applies to the following localities within the Alameda County district: Alameda, Albany, Berkeley, Emeryville, Oakland, Piedmont and contiguous suburban territory.

**RATE "B."**

On the basis of monthly consumption per meter.

**Base rate:**

- \$0.75 for the first 500 cubic feet or less.
- 1.20 per 1,000 cubic feet for the next 4,500 cubic feet.
- 1.00 per 1,000 cubic feet for the next 5,000 cubic feet.
- .90 per 1,000 cubic feet for the next 10,000 cubic feet.
- .80 per 1,000 cubic feet for the next 20,000 cubic feet.
- .70 per 1,000 cubic feet for all over 40,000 cubic feet.

**Surcharge:**

In addition to the above, a surcharge of 10 cents per 1,000 cubic feet for all gas consumed.

**TERRITORY.**

This rate applies to the following localities (1) within the Alameda County district: Hayward, San Leandro, Richmond and contiguous suburban territory; (2) within the Redwood district: Daly City, Burlingame, Hillsborough, Redwood City, San Mateo, South San Francisco and contiguous suburban territory.

This rate does not apply to gas served to the city of Palo Alto for redistribution.

**RATE "C."**

On the basis of the monthly consumption per meter.

**Base rate:**

- \$0.75 for the first 600 cubic feet or less.
- 1.20 per 1,000 cubic feet for the next 2,400 cubic feet.
- 1.00 per 1,000 cubic feet for the next 7,000 cubic feet.
- .80 per 1,000 cubic feet for the next 10,000 cubic feet.
- .70 per 1,000 cubic feet for all over 20,000 cubic feet.

**Surcharge:**

In addition to the above, a surcharge of 10 cents per 1,000 cubic feet for all gas consumed.

**TERRITORY.**

This rate applies to the city of Sacramento and suburbs.

**PREPAYMENT METERS.**

Gas sold through prepayment meters shall be paid for in accordance with this rate. When the amount collected by a prepayment meter is different from the amount chargeable in accordance with this rate, the difference shall be adjusted between the consumer and the company.

**RATE "D."**

On the basis of monthly consumption per meter.

**Base rate:**

- \$0.75 for the first 600 cubic feet or less.
- 1.10 per 1,000 cubic feet for the next 2,400 cubic feet.
- .90 per 1,000 cubic feet for the next 7,000 cubic feet.
- .80 per 1,000 cubic feet for the next 10,000 cubic feet.
- .70 per 1,000 cubic feet for all over 20,000 cubic feet.

**Surcharge:**

In addition to the above a surcharge of 10 cents per 1,000 cubic feet for all gas consumed.

**TERRITORY.**

This rate applies to the following localities: City of Fresno and suburbs, city of San Jose and suburbs.



## RATE "E."

On the basis of monthly consumption per meter.

## Base rate:

\$0.75 for the first 400 cubic feet or less.

1.50 per 1,000 cubic feet for the next 4,000 cubic feet.

1.00 per 1,000 cubic feet for the next 5,000 cubic feet.

.80 per 1,000 cubic feet for the next 10,000 cubic feet.

.70 per 1,000 cubic feet for all over 20,000 cubic feet.

## Surcharge:

In addition to the above, a surcharge of 10 cents per 1,000 cubic feet for all gas consumed.

## TERRITORY.

This rate applies to the following localities within the Marin district: San Anselmo, San Rafael, Fairfax, Ross, Kentfield, Larkspur, San Quentin and contiguous suburban territory.

## RATE "F."

On the basis of monthly consumption per meter.

## Base rate:

\$0.75 for the first 400 cubic feet or less.

1.60 per 1,000 cubic feet for the next 4,000 cubic feet.

1.20 per 1,000 cubic feet for the next 5,000 cubic feet.

.80 per 1,000 cubic feet for all over 10,000 cubic feet.

## Surcharge:

In addition to the above, a surcharge of 10 cents per 1,000 cubic feet for all gas consumed.

## TERRITORY.

This rate applies in the following localities: Chico district—City of Chico and suburbs; Colusa district—City of Colusa and suburbs; Marysville district—Marysville, Yuba City and suburbs, Oroville, Oroville and suburbs; Napa district—City of Napa and suburbs; Nevada district—Nevada City, Grass Valley and suburbs; Petaluma district—City of Petaluma and suburbs; Santa Rosa district—Santa Rosa, Sebastopol and contiguous suburban territory; Yolo district—City of Woodland and suburbs.

## RATE "G."

On the basis of monthly consumption per meter.

## Base rate:

\$1.00 for the first 500 cubic feet or less.

1.60 per 1,000 cubic feet for the next 4,500 cubic feet.

1.40 per 1,000 cubic feet for the next 5,000 cubic feet.

1.20 per 1,000 cubic feet for all over 10,000 cubic feet.

## Surcharge:

In addition to the above, a surcharge of 10 cents per 1,000 cubic feet for all gas consumed.

## TERRITORY.

This rate applies in the city of Los Gatos and suburbs.

## RATE "H."

On the basis of monthly consumption per meter.

## Base rate:

\$0.75 for the first 400 cubic feet or less.

1.40 per 1,000 cubic feet for the next 4,000 cubic feet.

1.00 per 1,000 cubic feet for the next 5,000 cubic feet.

.80 per 1,000 cubic feet for the next 10,000 cubic feet.

.70 per 1,000 cubic feet for all over 20,000 cubic feet.

**Surcharge:**

In addition to the above a surcharge of 10 cents per 1,000 cubic feet for all gas consumed.

**TERRITORY.**

This rate applies to the city of Vallejo and suburbs.

And further provided Pacific Gas and Electric Company shall show separately on bills for gas rendered its consumers the amounts due it under the base rates and under the surcharges, respectively.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-eighth day of May, 1918.

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**DECISION No. 5440.**

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER FIXING THE RATE AND CHARGE FOR GAS FURNISHED THE CITY OF PALO ALTO.

Application No. 3300.

*Decided May 28, 1918.*

**GAS RATES—FLEXIBLE RATE PROVIDED FOR LARGE WHOLESALE SERVICE—**(For discussion of general principles of increase see Decision 5439).—The rate for gas supplied to the city of Palo Alto increased because of increased price of oil. The new rate is made flexible in so far as it is affected by changes in the price of oil so as to render unnecessary repeated proceedings for readjustment of the rate.

*Charles P. Cutton*, for Applicant.

*Norman E. Malcolm*, for city of Palo Alto.

**THELEN and DEVLIN**, *Commissioners*.

**OPINION.**

This proceeding involves the fixing of just and reasonable rates for gas supplied by applicant at wholesale to the city of Palo Alto.

The city of Palo Alto owns and operates a gas distribution system in the city of Palo Alto and environs and purchases gas at wholesale from the Pacific Gas and Electric Company.

The Pacific Gas and Electric Company owns and operates a gas plant in the city and county of San Francisco and a gas transmission line extending from its plant in a southerly direction through San Mateo County and a portion of Santa Clara County to the city of Palo Alto. Pacific Gas and Electric Company owns several distributing systems supplying cities and towns en route, and the territory thus served is

designated as applicant's "Redwood district." All gas supplied, both to its own consumers in Redwood district and to the city of Palo Alto, is manufactured at the applicant's Potrero gas plant in San Francisco, and transmitted at high pressure to points of consumption. The city of Palo Alto has been engaged in the business of supplying gas to its inhabitants and the inhabitants of certain adjacent territory since on or about the twenty-second day of September, 1917, at which time the city obtained possession of the gas distributing system formerly owned by the Palo Alto Gas Company.

Hearings were held in San Francisco on January 3 and 4 and on May 17, 1918. The matter was then submitted and is now ready for decision.

Under terms of a certain contract entered into on the eighteenth day of March, 1905, by and between the United Gas and Electric Company and Palo Alto Gas Company, Palo Alto Gas Company agreed to purchase gas from United Gas and Electric Company for a term of ten years, and to pay for all gas purchased an amount equivalent to 50 per cent of the gross revenue derived by Palo Alto Gas Company. Pacific Gas and Electric Company, as successor in interest to United Gas and Electric Company, carried out the provisions of this contract, until its expiration on September 8, 1915, and during said term and thereafter billed Palo Alto Gas Company in accordance therewith.

Prior to the first day of April, 1913, the rate charged by Palo Alto Gas Company for gas sold its consumers was \$1.50 per thousand cubic feet. Under the terms of the contract above-mentioned, Pacific Gas and Electric Company received seventy-five cents for each and every thousand cubic feet of gas sold by Palo Alto Gas Company to its own consumers. The Railroad Commission in its Decision No. 499, Case No. 288, dated March 12, 1913, fixed the gas rates of the Palo Alto Gas Company at \$1.20 per thousand cubic feet. Under the terms of the above-mentioned contract, Pacific Gas and Electric Company thereupon charged Palo Alto Gas Company for gas at the rate of sixty cents per thousand cubic feet sold. In fixing the Palo Alto Gas rate, the commission stated that the cost of gas delivered to Palo Alto Gas Company by Pacific Gas and Electric Company was not in excess of 53.454 cents per thousand cubic feet, and based its conclusions upon certain testimony by officers of Pacific Gas and Electric Company. Thereupon Palo Alto Gas Company refused to pay for gas to the Pacific Gas and Electric Company more than fifty-four cents per thousand cubic feet. Out of this difference has arisen a dispute and claim for reparation, which is before this commission in Case No. 1144 now pending.

The city of Palo Alto, as successor of Palo Alto Gas Company, has agreed that pending the decision of the present proceeding, it will pay

Pacific Gas and Electric Company at the same rate that Pacific Gas and Electric Company had heretofore billed Palo Alto Gas Company, namely, sixty cents per thousand cubic feet sold; and in the event of this commission fixing another rate, the city will pay to Pacific Gas and Electric Company the difference between the billed rate and the rate fixed by the commission. This arrangement was to apply to all gas purchased on and after October 1, 1917.

We have, then, before us only the question of fixing the rate which city of Palo Alto will pay to Pacific Gas and Electric Company for gas delivered into the city's system. In Decision No. 4736, Case No. 839, dated October 8, 1917, this commission fixed the cost of production of gas at the applicant's San Francisco plants, and further segregated the cost of gas delivered to the Redwood district, in which is included the gas delivered to the city of Palo Alto.

In Application No. 3248, this day decided, this commission considered all matters in reference to the gas rates of applicant in Redwood district, excepting the rate for gas served to the city of Palo Alto. By stipulation, the evidence in both of these proceedings is considered a part of the record herein.

In the decision this day rendered in Application No. 3248, this commission made findings of the value of the property and costs of service of applicant applicable to the service of gas in the Redwood district, and segregated the same as between gas sold to the city of Palo Alto and gas sold to applicant's consumers in Redwood district.

The properties used and useful in the service of gas to the city of Palo Alto consist of certain portions of the transmission system and other equipment used exclusively in the service of gas to city of Palo Alto, and in addition certain portions of the transmission system and equipment, used for the joint service of gas both to the city of Palo Alto and other consumers of applicant in its Redwood district. In addition, certain plant and equipment located at applicant's Potrero plant in San Francisco are used for the manufacture and pumping of gas both to the city of Palo Alto and applicant's other consumers in the Redwood district.

From the evidence herein, we find as a fact that a reasonable rate base to be used in determining the cost of service of gas to the city of Palo Alto, which includes both plant and properties used exclusively in the service of gas to the city of Palo Alto and a pro rata of the plant and properties used for joint service of gas both to the city of Palo Alto and to applicant's other consumers in the Redwood district, is the sum of \$105,227.00. This does not include any portion of applicant's gas production plant in San Francisco, which has, however, been provided for as an item in the cost of manufacture of gas subsequently delivered

to Palo Alto and applicant's Redwood district. One of the items to be considered in fixing the wholesale gas rate for the city of Palo Alto is the cost of gas manufacture at applicant's plant in San Francisco. This matter was covered by this commission in Decision No. 4736, Case No. 839, based upon the conditions which then existed.

Subsequent to this decision, however, the cost of oil used in gas manufacture has increased so that applicant will be obliged, on and after June 1, 1918, to pay, under its oil contract, an increased price of approximately 27 cents per barrel of oil. The effect of a change in the price of oil is to correspondingly modify the cost of gas manufacture and therefore to alter the rate. In the case of a very large consumer, such as is the city of Palo Alto herein, we deem it desirable to fix a rate that will be flexible in so far as it is affected by changes in the price of oil, and which will thereby render unnecessary repeated proceedings for adjustments in the rate. Furthermore, since the city of Palo Alto and applicant have agreed to make the rate to be fixed herein retroactive to October 1, 1917, this form of rate will establish a basis for adjustment of charges for gas in the interim.

We have taken into consideration the probable amount of gas delivered by applicant to the city of Palo Alto, and the losses in transmission thereof between applicant's manufacturing plant in San Francisco and the point of delivery. We have also taken into account the cost of gas manufacture at the applicant's plant in San Francisco and all other fixed charges and expenses incidental to the transmission and delivery of gas to the city of Palo Alto, which includes both those charges and expenses allocated exclusively against the gas supplied to the city of Palo Alto and a pro rata of the fixed charges and expenses allocated to all gas sold to both applicant's consumers in Redwood district and to the city of Palo Alto. Allowance has been made for a reasonable return upon applicant's investment and for a proper depreciation annuity upon the properties of applicant used in this connection, and for all other items affecting the cost of service herein.

Under the present system of rates the Pacific Gas and Electric Company receives payment for gas supplied to the city of Palo Alto on the basis of the sales of gas as recorded on meters of the city's consumers. If the amount of gas lost in the city's distribution system were a matter of exact computation, this method would be proper, but in so far as the loss in the city's distribution system is a variable figure, this method of measurement of gas sold would be inequitable to the Pacific Gas and Electric Company and would penalize them in the event that the city of Palo Alto were negligent in the maintenance of its system, and permitted thereby a greater loss of gas. Applicant has installed at the point of delivery to the city of Palo Alto an accurate and satisfactory type of meter which measures all the gas delivered by applicant to the

city of Palo Alto, and the city of Palo Alto under these conditions should necessarily assume the responsibility for whatever losses may occur in its own system. We believe it more equitable to both parties herein that the rate should be fixed on the basis of gas as delivered by applicant to the city of Palo Alto and as measured by applicant's meter at the point of delivery.

We find as a fact that the existing charge of sixty cents per thousand cubic feet sold is not a fair, just and reasonable rate in so far as it does not take into account the cost and value of service rendered, and in so far as it differs from the rate hereinafter fixed.

We find as a fact that the rate herein set forth as Schedule "J" is a just and reasonable rate for the service of gas supplied at wholesale by applicant to the city of Palo Alto under the conditions of delivery, measurement and price of oil as set forth in said rate schedule.

#### SCHEDULE "J."

On the basis of monthly consumption of gas as measured at the point of delivery to the city of Palo Alto at or near the compression tanks of the city.

#### *Rate.*

62 cents per 1,000 cubic feet for the first 5,000,000 cubic feet per month.  
40 cents per 1,000 cubic feet for all over 5,000,000 cubic feet per month  
plus 2 cents per 1,000 cubic feet for all gas consumed for each 10 cents per barrel that the average price of oil at the Potrero plant of the company exceeds \$1.00 per barrel.

A cubic foot of gas is hereby defined as that volume of gas occupying the space of one cubic foot at a temperature of 60 degrees Fahrenheit and at a pressure of four inches of water above the atmospheric pressure, the atmospheric pressure being taken as the pressure equivalent to a thirty-inch column of mercury.

#### *Territory.*

This rate applies only to gas sold at wholesale to the city of Palo Alto.

We submit the following form of order:

#### ORDER.

Public hearings having been held in the above-entitled proceeding, and the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rate charged by Pacific Gas and Electric Company for gas sold at wholesale to the city of Palo Alto is unjust and unreasonable so far as it differs from the rates herein established and that the rate herein established is a just and reasonable rate.

Basing its order upon the foregoing findings of fact and upon the other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the Pacific Gas and Electric Company be and is hereby authorized to charge and collect for gas sold at wholesale to the city of Palo Alto the rate set forth in the opinion herein as

Schedule "J," provided the Pacific Gas and Electric Company shall, within ten days after the date of this order, file with the Railroad Commission the rates set forth herein as Rate Schedule "J."

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-eighth day of May, 1918.

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DECISION No. 5443.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO GAS COMPANY FOR AN ORDER AUTHORIZING INCREASE IN RATES IN THE CITY OF SACRAMENTO.

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Application No. 3289.

*Decided May 28, 1918.*

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GAS RATES—INCREASE BECAUSE OF PRICE OF OIL.—Rates for gas supplied in the city of Sacramento increased because of the increased price of oil. For discussion of general principles see Decision 5439.

*Devlin & Devlin*, for Applicant.

*Archibald Yell* and *B. D. Marx Greenc*, for city of Sacramento.

*Chas. P. Cutten*, for Pacific Gas and Electric Company.

EDGERTON and DEVLIN, *Commissioners*.

OPINION.

This proceeding involves the fixing of just and reasonable gas rates in that portion of the city of Sacramento served by the Sacramento Gas Company.

On October 25, 1917, the Sacramento Gas Company filed an application asking an increase in the rates charged by it for gas furnished to consumers in the city of Sacramento, alleging, among other things, the present insufficiency of its revenue to provide it with a reasonable return upon its invested capital on account of the increases in its operating costs.

Hearings were held in Sacramento on December 19, 1917, and in connection with Application No. 3248 in San Francisco on February 11 and 21, 1918.

The Sacramento Gas Company, hereinafter referred to as the "applicant," is engaged in serving a mixture of natural and artificial gas in portions of the city of Sacramento, and during the year 1917 sold 141,892,000 cubic feet of gas to approximately 6,776 consumers. The existing rates of the company are shown in the schedules on file with this commission.

The applicant has, in the past, purchased oil for use in its gas manufacturing plant at a price of 80 cents per barrel, but is now required to pay approximately \$1.85 per barrel. Such an increase is reflected in the company's cost of operation and the company has further been compelled to meet increased costs of material used in the construction and operation of its properties, and higher wages are being paid to its employees. Under such conditions, we are of the opinion that a part at least of the added burden of the cost of operation of the company should be borne by its consumers in the form of increased rates.

In our opinion in Application No. 3248, decided this date, we have set forth the war emergency affecting public utilities and the principles which we believe govern the actions of regulatory bodies under present conditions, and in the present instance we have likewise fixed a normal rate and a surcharge to meet the emergency conditions. We recommend, as in Application No. 3248, that the bills rendered by applicant to consumers in accordance with the rates hereinafter fixed, show the surcharge in the following language:

“Authorized added charge to meet war conditions.”

The company has submitted in evidence a valuation of its gas properties in the city of Sacramento, prepared by Mr. A. R. Kelley, which purports to show the historical cost of the properties as of April 1, 1915. Applicant has further submitted in evidence the additions and betterments to its plant and properties as shown on its books from April 1, 1915, to and including December 31, 1917. The commission's engineers have carefully examined the evidence submitted in connection with the valuation of these properties, and we feel satisfied that for the purposes of this proceeding alone, findings of value can be made as a basis for comparing the return to applicant under existing rates and under the rates hereinafter fixed.

We find as a fact that the value of the properties used and useful in the service of gas by applicant in the city of Sacramento, which represents an equitable base for the year 1918, and which further represents a reasonable valuation of the properties for comparing earnings under existing rates, with earnings under the rates hereinafter fixed, is the sum of \$810,000.00. This figure includes applicant's lands, production capital, distribution capital and general capital, materials and supplies and working cash capital. It should be understood that in using this rate base, we do not pass finally upon the fair value of applicant's properties.

It will not be necessary for the purpose of this proceeding to specify with exactness the reasonable allowance for depreciation annuity upon the property of applicant. We shall make no findings as to the proper



depreciation allowance upon applicant's property herein, but for the purpose of showing the comparative returns under existing rates and under rates hereinafter fixed, we shall consider the net income of applicant from its operations inclusive of depreciation. We desire to point out, however, at this time that the annual depreciation allowance claimed by applicant in this proceeding is in excess of a proper and reasonable annual depreciation allowance when compared with the depreciation allowances heretofore found by this commission for similar properties.

We have reviewed the evidence submitted and have estimated therefrom the growth of applicant's business in the year 1918 as compared with the year 1917, and have given consideration to the various items affecting the cost of operation of its properties and the other factors which tended to increase the cost of operation over and above the ordinary increase due to the growth of its business, and will show the conditions existing in applicant's business under existing rate and under the rates hereinafter fixed and the effect thereon upon applicant's net income.

Applicant's estimated revenue under existing rates in the city of Sacramento would be \$148,115.00 and under the rates hereinafter fixed \$187,437.00. Deducting operating expenses based upon the present price of oil of \$1.85 per barrel, and all other maintenance and operating costs, including taxes, the net income available for depreciation and return under existing rates would be \$50,537.00 and under the rates hereinafter fixed the corresponding net income would be \$87,084.00.

We find that the revenue that applicant will derive from existing rates will not provide it with an adequate return after the deduction of all proper operating expenses, and to this extent and in so far as they differ from the rates hereinafter fixed, the existing rates are not just, fair and reasonable rates, and we are further of the opinion that the rates of applicant in the city of Sacramento should be so modified that they will provide the company with greater net revenue.

Applicant asks that this commission fix a rate for it as high as that which may be permitted its competitor in the same field. It may be well to point out at this time that applicant is in competition in the city of Sacramento in the service of gas with the Pacific Gas and Electric Company, the consumers being divided approximately one-third to applicant and two-thirds to Pacific Gas and Electric Company.

The commission has this day, in its Decision No. 5439, Application No. 3248, fixed the rates to be charged for gas by the Pacific Gas and Electric Company in the city of Sacramento and suburbs. The rate therein established for the Pacific Gas and Electric Company, if applied to the business of applicant in the city of Sacramento, would provide applicant with a rate of return in excess of the rate of return allowed

to the Pacific Gas and Electric Company in Decision No. 5439, Application No. 3248. We are satisfied that the greater rate of return thus allowed applicant is due it by reason of the proportionally smaller operating costs of applicant, and by reason of the fact that applicant's service is not entirely of manufactured gas, as is its competitor's, although of approximately the same quality.

We find as a fact that the rate established by this commission in Decision No. 5439, Application No. 3248, for the Pacific Gas and Electric Company in the city of Sacramento and suburbs and set forth herein as Rate Schedule "C" following, is a fair, just and reasonable rate for gas service in the territory served by applicant in the city of Sacramento.

#### RATE SCHEDULE "C."

On the basis of monthly consumption per meter.

Base rate:

- \$0.75 for the first 600 cubic feet or less.
- 1.20 per 1000 cubic feet for the next 2,400 cubic feet.
- 1.00 per 1000 cubic feet for the next 7,000 cubic feet.
- .80 per 1000 cubic feet for the next 10,000 cubic feet.
- .70 per 1000 cubic feet for all over 20,000 cubic feet.

Surcharge:

In addition to the above, a surcharge of 10 cents per 1,000 cubic feet for all gas consumed.

This rate applies to the following localities: The city of Sacramento and suburbs.

#### PREPAYMENT METERS.

Gas sold through prepayment meters shall be paid for in accordance with this rate. When the amount collected by a prepayment meter is different from the amount chargeable in accordance with this rate, the difference shall be adjusted as between the consumer and the company.

The rate hereinbefore set forth as Rate Schedule "C," according to estimates prepared by the commission's gas and electric department, will increase the gross revenue of applicant by the sum of \$39,322.00 and the net revenue by the sum of \$36,547.00 over and above that which applicant would obtain under existing rates. These increases will provide applicant with a net revenue for depreciation and return that we regard as reasonable under present conditions.

We submit the following form of order:

#### ORDER.

Public hearings have been held in the above-entitled proceeding, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates charged by the Sacramento Gas Company for gas sold in the city of Sacramento are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates.

Basing its order upon the foregoing findings of fact and on the other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the Sacramento Gas Company be and is hereby authorized to charge and collect for gas in the city of **Sacramento** the rate herein set forth as Rate Schedule "C" for all meter readings taken on and after the tenth day of June, 1918, provided Sacramento Gas Company shall, within ten days of the date of this order file with the Railroad Commission the rates set forth herein as Rate Schedule "C."

And further provided, Sacramento Gas Company shall show separately on the bills rendered its consumers the amounts due it under the base rate and under the surcharge, respectively.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-eighth day of May, 1918.

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DECISION No. 5445.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO INCREASE ITS RATES AND CHARGES FOR GAS FURNISHED AND SUPPLIED TO THE INHABITANTS OF THE CITY AND COUNTY OF SAN FRANCISCO.

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Application No. 3742.

*Decided May 28, 1918.*

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**GAS RATES—INCREASE BECAUSE OF PRICE OF OIL.**—Rates for gas supplied in the city and county of San Francisco increased because of the increased price of oil. For discussion of general principles see Decision 5439.

*Charles P. Cutton*, for Applicant.

*John J. Dailey*, for city and county of San Francisco.

**THELEN** and **DEVLIN**, *Commissioners*.

**OPINION.**

Pacific Gas and Electric Company, hereinafter referred to as applicant, asks for an order of the Railroad Commission granting it authority to increase gas rates in the city and county of San Francisco, alleging among other things an increase in the cost of oil, labor and other expenses incidental to the operation of applicant's gas business, and the insufficiency of the revenue under existing rates to provide a satisfactory return.

A hearing was held on May 18, 1918. The matter was submitted at that time and is now ready for decision.

Applicant has submitted evidence showing an increase of twenty-seven and one-half ( $27\frac{1}{2}$ ) cents per barrel in the price of oil over and above the price heretofore paid by applicant under its oil contract. This increased price will apply to all deliveries made to applicant in San Francisco on and after June 1, 1918. Applicant further shows substantial increases in wages paid and to be paid to its employees to meet both the increased cost of living on their part and the competitive conditions now existing in the labor market so as to hold its employees. Practically all costs incidental to the service of gas in the city and county of San Francisco, have increased in spite of applicant's efforts to combat them.

This commission has but recently passed upon the gas rates of applicant in the city and county of San Francisco and in Decision No. 4736, Case No. 839, dated October 8, 1917, we established just and reasonable rates for gas in the city and county of San Francisco, under the conditions which then existed and considering the changes contemplated only during the subsequent year. In this decision we based the cost of service upon an oil price to applicant of \$1.35 per barrel, which price has now been increased to \$1.62 per barrel. In fixing these rates, our endeavor was to allow applicant a return of eight per cent ( $8\%$ ) after the deduction of all proper operating expenses, including depreciation.

The existing rates have been in effect for a period of six months, and applicant now shows that the revenues obtained to date under these rates have been slightly less than was anticipated in our earlier decision, due principally to the fact that the increase in business in the city and county of San Francisco has been somewhat less than was to be expected from the evidence in Case No. 839.

We are not wholly satisfied that the first six months of operation under the rate therein fixed is a conclusive measure of the result of a full year's operation. We do, however, recognize that the estimated growth in business has not been attained. To this extent the rates therein fixed have not yielded the full anticipated return, and we believe that the deficiency should now be met in rates. Further increases in the rate should be made to offset the increase in the cost of oil and the increased operating expenses of the company.

From the figures of operating costs submitted, we observe that the maintenance of the company's properties is being curtailed. While we recognize that under emergency conditions such as now exist, any business will endeavor to reduce its outlay to a minimum, we do not look with favor upon a policy that involves deferred maintenance, at least as long as conditions do not become such as to make such a policy necessary. Under existing conditions, we believe that the company should adequately maintain its properties and we have, therefore,

increased the maintenance allowance over and above figures submitted by the company as representing recent expenditures for maintenance.

Practically all the causes affecting the increased cost of service are beyond the control of applicant, and in addition to these extra burdens, we must give consideration to the emergency feature of the situation, which includes the necessity for safeguarding the financial status of this utility. We have set forth in Decision No. 5439, Application No. 3248, this day decided, the emergency conditions which must be met, and the principles which we believe should govern the action of regulatory bodies in affording relief to utilities under such conditions.

The recent increased cost of oil will alone result in an increased cost to Pacific Gas and Electric Company of approximately 5 cents for each 1,000 cubic feet of gas sold in San Francisco. Officials of the company testified that increased wages to gas workers recently granted or anticipated during the ensuing year will add between  $1\frac{1}{2}$  and 2 cents to the cost of each 1,000 cubic feet of gas. Another 2 cents per thousand must be added to take care of the deficiency in revenue resulting principally from sales less than heretofore estimated. Bearing in mind these added costs, the effect of the Daylight Saving Law, and the necessity of maintaining this property both physically and financially, bearing in mind a proper capitalization, we find that it will be necessary, as long as these emergency costs continue, to add to the rates heretofore established by this commission and now in effect in San Francisco a surcharge of 10 cents for each 1,000 cubic feet of gas sold.

The relief herein requested is entirely of an emergency nature and we have no means at this time of knowing to what extent future conditions will affect applicant's operating costs. Under the conditions which existed at the time of Decision No. 4736, the rates therein established were, in our judgment, proper and should remain in their present form as a rate structure applicable to normal conditions. We are providing for the emergency by adding a surcharge, which we suggest be shown on the bills rendered to consumers in the following language:

“Authorized added charge to meet war conditions.”

This surcharge will obviate the necessity of changing an already established rate structure and, in our judgment, will most equitably apportion the added cost of service among applicant's consumers. If subsequent conditions render further rate modifications desirable, the surcharge may be decreased or increased to afford speedy relief.

We recommend the following form of order:

#### ORDER.

Pacific Gas and Electric Company having applied for an order authorizing an increase in its rates for gas sold in the city and county of San Francisco, hearings having been held and the matter being now

ready for decision, we find as a fact that under present conditions the existing rates are not just and reasonable rates, and that an additional charge of ten cents (10¢) per thousand cubic feet of gas sold is necessary to reimburse applicant for its added costs of operation, and to provide applicant with an adequate return.

Basing this order upon the foregoing findings of fact and on the findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the Pacific Gas and Electric Company be and the same is hereby authorized to charge and collect for gas sold in the city and county of San Francisco the rates heretofore established in Decision No. 4736, and in addition thereto, until the further order of the commission, a surcharge of ten cents (10¢) per thousand cubic feet for all gas sold for all meter readings taken on and after the tenth day of June, 1918, provided Pacific Gas and Electric Company shall, within ten days from the date of this order, file with the Railroad Commission an amended schedule of rates which shall include both the existing rates and the surcharge herein established, and further provided Pacific Gas and Electric Company shall show separately on bills for gas rendered to its consumers the amount due it under the rate and under the surcharge herein, respectively.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-eighth day of May, 1918.

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DECISION No. 5446.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO MAKE, EXECUTE AND DELIVER A TRUST DEED COVERING ALL OF ITS PROPERTY OF EVERY NATURE AND CHARACTER TO SECURE A BONDED INDEBTEDNESS AND TO ISSUE, SELL AND DELIVER TEN MILLION DOLLARS OF ITS BONDS UNDER SAID TRUST DEED.

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Application No. 3032.

*Decided May 28, 1918.*

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BY THE COMMISSION.

**ELEVENTH SUPPLEMENTAL ORDER.**

Southern California Edison Company having filed with the Railroad Commission a statement showing that it has expended for construction purposes during the month of April, the sum of \$167,269.60, and it appearing that the sum so expended was for proper capital purposes

and that applicant is entitled to expend \$125,452.20 of the proceeds from the \$3,000,000.00 of bonds referred to in subdivision "A" of condition "3" of the order in Decision No. 4468, dated July 19, 1917, to finance in part said construction expenditures; now, therefore,

*It is hereby ordered* that Southern California Edison Company be and it is hereby authorized to use \$125,452.20 of the proceeds from the \$3,000,000.00 referred to in subdivision "A" of condition "3" of the order in Decision No. 4468, dated July 19, 1917, to pay in part for its construction expenditures during the month of April, 1918.

Dated at San Francisco, California, this twenty-eighth day of May, 1918.

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DECISION No. 5447.

IN THE MATTER OF THE APPLICATION OF PORTOLA WATER COMPANY TO MAKE ADDITIONAL CAPITAL INVESTMENT IN ITS PUBLIC UTILITY AND TO ISSUE ITS SECURITY IN ORDER TO SECURE FUNDS THEREFOR.

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Application No. 3755.

*Decided May 28, 1918.*

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BY THE COMMISSION.

**OPINION.**

Portola Water Company asks authority to issue at par \$2,200.00 of its common capital stock and use the proceeds for the purposes hereinafter referred to.

A hearing was held on this application before Examiner Westover at San Francisco on May 25, 1918.

The Railroad Commission by Decision No. 5388, dated May 8, 1918, authorized N. F. Golden, J. H. Golden, R. I. Lane and E. V. Darby, copartners, doing business under the firm name and style of the Portola Water Company, to transfer their public utility properties to the Portola Water Company, a corporation. The commission authorized the purchasing company to issue \$12,000.00 of its common capital stock in payment for the properties.

In the petition now before the commission it is alleged that applicant's developed water supply is inadequate, that it is the owner of a spring situate about 11,500 feet from its reservoir, that this spring will furnish at all seasons of the year about 17,280 gallons of water per day of 24 hours and that such water is pure and suitable for the purpose of the corporation. Applicant estimates that by an expenditure of \$2,000.00 it can connect the spring with its reservoir. Of this amount it would expend \$1,380.00 for 11,500 feet of two-inch pipe, \$170.00 for freight

and other cost of delivering the pipe on the ground, and \$450.00 for installation. The engineering department of the Railroad Commission has checked the proposed expenditures and finds them to be reasonable.

In addition to expending \$2,000.00 for developing an additional water supply applicant asks permission to use \$200.00 to pay organization and other expenses incidental to the incorporation of Portola Water Company as set forth in the petition herein.

#### ORDER.

Portola Water Company having applied to the Railroad Commission for authority to issue \$2,200.00 par value of its common capital stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Portola Water Company be and it is hereby granted authority to issue at not less than the par value thereof, \$2,200.00 of its common capital stock, upon the following conditions and not otherwise:

1. Of the proceeds obtained from the issue of said stock, an amount not exceeding \$200.00 shall be used for the development of the additional water supply referred to in the petition herein.

2. Of the proceeds obtained from the issue of said stock an amount not in excess of \$200.00 shall be used to pay organization and other expenses in connection with the incorporation of Portola Water Company, referred to in the petition herein.

3. Portola Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the stock herein authorized to be issued and on or before the twenty-fifth day of each month, until all of said stock has been issued and the proceeds obtained therefrom expended, make verified reports to the Railroad Commission, in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall apply only to such stock as shall have been issued on or before October 1, 1918.

Dated at San Francisco, California, this twenty-eighth day of May, 1918.



## DECISION No. 5449.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AUTHORITY TO INCREASE ITS ELECTRIC RATES.

Application No. 3531.

*Decided May 28, 1918.*

**ELECTRIC RATES SURCHARGE DAYLIGHT SAVING ACT.**—Electric utility permitted to put into effect a surcharge above normal rates heretofore fixed by the commission, this surcharge to take care of increased operating costs due to war emergency.

Effect of Daylight Saving Act in limiting consumption of electric energy and thus diminishing the revenue of the utility discussed.

*Short & Sutherland*, by *W. A. Sutherland*, and *Murray Bourne*, for San Joaquin Light and Power Corporation.

*B. D. Murr Greene*, for cities and towns of Bakersfield, Coalinga, Fowler, Fresno, Kingsburg, Madera, Maricopa, Sanger and Selma, and the counties of Fresno, Kern and Madera and their inhabitants.

*Henry E. Barbour*, for city of Fresno.

*E. J. Emmons*, for city of Bakersfield.

*C. L. McCray*, for county of Merced.

*Evarts & Ewing*, for Fresno Traction Company.

*Sanborn & Rockl*, for Rosenberg Brothers & Company.

*Johnson & Jones*, for Fresno Rock Products Company.

*P. W. Stamps*, for California Central Creameries.

*THELEN, Commissioner.*

## OPINION.

San Joaquin Light and Power Corporation asks authority to increase its rates for electric energy by reason of increased operating expenses, due principally to the shortage of water for the generation of hydroelectric energy and to increased costs of fuel oil, labor and materials.

The company does not ask a permanent increase in the rates established by this commission, after exhaustive inquiry, by Decision No. 3241, made on April 6, 1916 (Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 542), but asks permission to make a temporary surcharge, to remain in effect only as long as necessary to take care of the company's additional cost of service, thus leaving intact as a basic rate structure the rates established by this commission in said Decision No. 3241.

With the exception of the substantial shortage in snow and rainfall on the watersheds from which the company secures the water used by it in the generation of hydroelectric energy, the company's increased operating expenses are principally due to the war.

Public hearings herein were held in Fresno on April 8 and 9, and in San Francisco on May 1 and 2. Additional data to be supplied by the company have now been filed and the proceeding is ready for decision.

The documents to which exhibit numbers were assigned at the hearings herein have all been filed. In addition thereto, it was stipulated that all documents which might have been filed herein by the parties subsequent to the hearings should be given appropriate exhibit numbers and considered as evidence herein. The following documents have thus been filed, have been given the exhibit numbers indicated and under the stipulation will be considered as part of the evidence herein:

*Additional Exhibits of San Joaquin Light and Power Corporation.*

Exhibit No. 23—Letter from G. R. Kenny to Railroad Commission, dated May 7, 1918—Capital expenditures June 1, 1915, to January 1, 1916.

Exhibit No. 24—Copy of contract between California Natural Gas Company and San Joaquin Light and Power Corporation, dated April 19, 1911.

Exhibit No. 25—Copy of fuel oil contract between General Petroleum Corporation and San Joaquin Light and Power Corporation, dated January 31, 1918.

Exhibit No. 26—Copy of fuel oil contract between Shell Company of California and San Joaquin Light and Power Corporation, dated February 4, 1918.

Exhibit No. 27—Copy of letter from General Petroleum Corporation to San Joaquin Light and Power Corporation, dated April 30, 1918, announcing increased price of fuel oil.

Exhibit No. 28—Estimate of cost of 6-inch natural gas pipe line.

Exhibit No. 29—Estimate of cost of installing gas burners and boilers at Bakersfield steam plant.

Exhibit No. 30—Fuel used at steam plants, April, 1918.

Exhibit No. 31—Total plant output and interchange of power, March and April, 1918.

Exhibit No. 32—Letter from G. R. Kenny to Railroad Commission, dated May 13, 1918, enclosing statement of electric earnings of San Joaquin Light and Power Corporation for April, 1918.

Exhibit No. 33—Letter from G. R. Kenny to Railroad Commission, dated May 17, 1918, giving data as to construction expenditures and earnings.

Subsequent to the hearings herein, the company and Mr. B. D. Marx Greene, representing various cities and counties and their inhabitants, filed memoranda, as authorized at the hearing.

I shall consider the subject matter of this opinion under the following heads:

I. Rate base.

II. Depreciation annuity.

## III. Operating expenses.

(1) Production necessary for 1918.

(2) Cost of fuel.

(3) Other operating expenses.

(4) Taxes.

(5) Total operating expenses.

## IV. Return on rates now in effect.

## V. Rates herein established.

## VI. Rules and regulations governing extensions.

## VII. Informal complaints.

## I.

## RATE BASE.

In Decision No. 3241, this commission established the rate base of \$10,054,540.00 as being proper for the year 1916. This sum included an item of \$264,485.00 being the assumed total cost of the transformers to be purchased by the company from its consumers, which payment, as a matter of fact, was only partially made in 1916, and has not as yet been entirely consummated. The total sum also included an item of \$175,300.00, being the assumed amount of construction capital for one-half of the year 1916.

In the present proceedings, it will be necessary to make allowance for additions and betterments made subsequent to Decision No. 3241, and also for capital expenditures to be made in 1918.

Table I shows the average capital for the years 1916 and 1917, and an estimate believed to be reasonable for the year 1918

TABLE I.

*Average Capital—Electric Department—1916, 1917, 1918 (estimated).*

Intangible and tangible capital	1916	1917	1918 (estimated)
Production .....	\$4,377,330 28	\$4,639,450 72	\$4,991,703 89
Transmission .....	1,509,689 85	1,615,845 80	1,729,699 89
Substation .....	521,119 92	583,491 78	676,386 72
Distribution .....	2,718,086 34	3,426,481 10	4,260,553 51
General .....	386,846 62	413,189 76	427,399 28
Undistributed .....	6,850 00	28,954 00	64,208 00
Totals .....	\$9,520,253 01	\$10,707,413 16	\$12,149,951 29
Working capital .....	133,500 00	133,500 00	150,000 00
Materials and supplies .....	328,624 00	396,389 00	464,154 00
Grand totals .....	\$9,982,377 01	\$11,237,302 16	\$12,764,105 29

In the foregoing table, the sum of \$100,000.00 has been deducted from the expenditure estimated by the company for distribution capital in 1918, for the reason that it appears improbable that the full amount of extensions estimated by the company for 1918 will be made.

## II.

**DEPRECIATION ANNUITY.**

In estimating the depreciation annuity to be allowed herein, it will be assumed that the company has assumed as of May 1, 1916, the depreciation to occur on all the transformers to be purchased from consumers on the basis of a total cost to the company of \$264,485.00. Additional depreciation has accordingly been allowed on transformers not at the time actually purchased by the company.

To the estimated depreciation annuity as of June 30, 1918, there should be added an item by reason of amortization of the gas main which the company is installing from the main of the Midway Gas Company, in the Midway field, to the company's steam plant in Bakersfield, for the purpose of utilizing natural gas in the steam plant and thus reducing operating expenses from what they would be if fuel oil alone were utilized. I believe it reasonable to assume a fifteen-year life of the gas main for this purpose. An additional sum of \$2,480.00 should be added on account of this main, under the head of amortization, in addition to the allowance for depreciation.

Table II shows the depreciation annuity to be allowed for 1918, estimated on the 6 per cent sinking fund basis and on the lives determined by this commission in Decision No. 3241.

TABLE II.

*Depreciation Annuity—Electric Department—1918.*

	Per cent deprecia- tion	As of June 30, 1918
Production .....	0.6179	\$30,844
Transmission .....	1.7690	30,443
Substation .....	1.828	12,329
Distribution .....	2.335	99,475
General .....	3.4390	14,685
Additional depreciation on transformers not purchased.....	*	985
Additional amortization of pipe line.....		2,480
<b>Total</b> .....		<b>\$191,211</b>
Undistributed expenditures .....	1.65	1,059
<b>Total annual depreciation</b> .....		<b>\$192,300</b>

\*\$264,485 × 2.72% less payment +.85.

The total allowance for depreciation annuity for 1918 will be \$192,300.00. On the same basis, the depreciation annuity as of June 30, 1916, was \$146,641.00, and as of June 30, 1917, \$166,453.00.

## III.

## OPERATING EXPENSES.

## 1. Production necessary for 1918.

The company's sales in kilowatt hours for the years indicated, are as follows:

1916 sales .....	83,886,520 kilowatt hours
1917 sales .....	110,278,839 kilowatt hours
1918 sales, as estimated by the company.....	135,340,000 kilowatt hours

Apart from the effect of the Daylight Saving Act, to which I shall refer shortly, and with the exception of the sales of agricultural power, I believe that the company's estimate of sales for 1918 may be accepted as being substantially correct.

I am satisfied, however, that the sales of agricultural power will be greater than estimated by the company. As shown in the company's Exhibit No. 12, the average connected load in 1916 was 9,110 horsepower, and in 1917, 13,023.5 horsepower. In 1916, the company sold 2,095 kilowatt hours per horsepower of average connected load, and in 1917, 2,430 kilowatt hours. The company reports an average connected load of 15,793.75 horsepower of agricultural power on December 31, 1917, and estimates extensions for 1918 totalling in cost practically the same as those installed in 1917. By reason of delay in securing equipment and difficulty in securing labor and material, it is hardly probable, however, that the horsepower connected agricultural load added in 1918 will be as great as that added in 1917. On its priority list, filed herein as its Exhibit No. 22, the company shows applications for agricultural service for 1918, amounting to 4,396 horsepower, some of which extensions, however, will not be made owing to excessive cost. Assuming that the amount of connected load of agricultural power added to the system in 1918 will be two-thirds as large as was added in 1917, the average agricultural connected load for 1918 would amount to 17,872 horsepower. Assuming the same kilowatt hours consumption per horsepower as occurred in 1917, the agricultural requirements will be 43,430,000 kilowatt hours as compared with the company's estimate of 40,140,000. The figure of 43,430,000 kilowatt hours will be used herein.

On March 18, 1918, the President signed S. 1854, providing for the saving of daylight and the establishment of a standard time for the United States. This act is generally known as the "Daylight Saving Act."

The act provides that from March 31, 1918, at two o'clock a.m., until October 27, 1918, at two o'clock a.m., all clocks shall be set ahead one hour. The effect of the act will be to give one more hour of daylight during the ordinary working hours of the day in the period specified.

By reason of this act, it will be necessary to make an adjustment in the estimated quantity of electric energy which would have been sold for residence and commercial lighting in the absence of this act.

The company presented in its Exhibit No. 13 an estimate of assumed reduction in revenue, to result from the Daylight Saving Act, amounting to 15 per cent in the total anticipated revenue from residence and commercial lighting, or a total amount of \$50,993.70. This estimate was based on the statement of an eastern engineer that he expected a 15 per cent reduction in revenue and was not based on an analysis of local conditions affecting the company.

Mr. J. E. Barker, representing the cities and counties which appeared herein, submitted as their Exhibit No. 2, an estimate of reduced gross revenue amounting to \$22,820.00. This estimate was based on a comparison of the estimated lighting revenue for March and May, 1918. The time of sunset being practically one hour later in May than in March, Mr. Barker assumed that the difference in lighting revenue for these two months would represent approximately the result of the setting of the clocks ahead one hour for one month. From the result thus obtained, he deducted 30 per cent to represent the assumed additional use of electricity during the earlier morning hours and also a possible further use in the evenings.

Mr. L. S. Ready, this commission's acting gas and electrical engineer, has made an independent estimate, based on the approximate difference in hours of darkness which occurred during various months in the summer of 1917, and has reached the conclusion that if the Daylight Saving Act had been in operation in 1917, the company would have suffered a reduction of \$30,000.00 in its residence and commercial lighting revenue, less such additional use of electricity as might occur in the mornings. Assuming a correction factor of 20 per cent by reason of the increased morning lighting, and bearing in mind increased sales in 1918, I find that it would be reasonable to assume a reduction of \$28,000.00 in residence and commercial lighting in 1918, due to this factor. This reduction in revenue from this class of business will represent a reduction in kilowatt hours sales of 620,000 kilowatt hours, which amount will be apportioned herein between residence and business lighting respectively estimated for 1918.

Table III shows actual sales in kilowatt hours from each class of the company's electric business during 1916 and 1917, together with the company's estimate for 1918, and this estimate as revised with respect to agricultural power and residence and business lighting, as herein indicated.

TABLE III.

*Sales in Kilowatt Hours—1916, 1917 and 1918 (estimated).*

	1916	1917	1918 (estimated by company)	1918 (revised estimate)
Municipal street lighting-----	2,499,883	2,248,121	2,500,000	2,500,000
Municipal lighting, miscellaneous. }		1,085,671	1,667,000	1,667,000
Business lighting -----	7,238,368	8,980,296	10,722,000	10,287,000
Residence lighting -----	3,241,849	3,898,810	4,556,000	4,371,000
Municipal power -----	814,750	1,278,365	1,500,000	1,500,000
Industrial power -----	21,576,424	26,887,888	31,000,000	31,000,000
Agricultural power -----	19,086,776	31,711,200	40,140,000	43,430,000
Oil well power*-----	14,714,571	16,463,144	19,755,000	19,755,000
Railway power -----	3,925,707	4,179,254	5,000,000	5,000,000
Other electric corporations-----	7,788,192	13,546,090	18,500,000	18,500,000
<b>Totals -----</b>	<b>83,886,520</b>	<b>110,278,839</b>	<b>135,340,000</b>	<b>138,010,000</b>

\*First four months of 1916 no separate record: arbitrarily assumed same rate of consumption as last eight months.

The estimate of sales herein used for 1918 is 138,010,000 kilowatt hours. On the assumption that the losses will amount to 30 per cent of the sales, this being the situation in 1917, it will be necessary for the company, in order to sell 138,010,000 kilowatt hours to produce 179,500,000 kilowatt hours.

## 2. Cost of fuel.

It will now be necessary to estimate how much of the electric energy needed in 1918 will be produced from water power and how much from steam power and to determine the cost of fuel.

Several estimates of the amount of electric energy to be produced by the company in 1918 were submitted herein, as follows:

Company's revised estimate (Exhibit No. 20)---	121,782,404 kilowatt hours
James E. Barker's estimate-----	144,628,399 kilowatt hours
L. S. Ready's estimate-----	129,560,000 kilowatt hours

The company's estimate was based on certain measurements of snow on its watershed and on a number of assumptions as to the amount of run-off, further rainfall and other factors. Mr. Barker's estimate was based on similar factors, including an assumed heavy rainfall during the remainder of the year. Mr. Ready's estimate was based on an interpolation from actual stream flow and run-off of the records during the last several years.

It is impossible for any human being to determine accurately the amount of water which will flow into the company's Crane Valley reservoir and other streams during the remaining portion of this year. The best that can be done in this proceeding is to make as close an approximation as possible and then to take care of the situation as it actually develops by either lengthening or shortening the period during which

the "surcharge" shall remain in effect. For the purposes of this proceeding, I shall assume a hydroelectric output by the company of 126,500,000 kilowatt hours in 1918.

It was urged by the representatives of the cities and counties that correction should be made for hydroelectric power delivered by the company to Southern California Edison Company, under an interchange agreement, during March and April, 1918. In view of the fact it is impossible at this time to determine the results of the interchange arrangement, I believe that this factor should not be considered at this time. This matter also may be hereafter considered in determining the time at which the "surcharge" should cease.

Assuming that 126,500,000 kilowatt hours of the company's electric energy in 1918 will be secured from water power, there remain 53,000,000 kilowatt hours which it will be necessary for the company to generate in its steam plant. The necessary steam will be generated in the company's Bakersfield steam plant, partly from natural gas and partly from fuel oil.

Assuming an average efficiency of 200 kilowatt hours from each barrel of fuel oil and a standby requirement of 10,000 barrels for the year, it will be necessary to burn 275,000 barrels of fuel oil, or its equivalent in natural gas.

As already indicated, the company is constructing a six-inch natural gas main from the main of Midway Gas Company, in Midway field to the company's steam plant in Bakersfield. The company estimated that the line would be completed by September 1, 1918. The cities and counties urged that it should be completed by July 1, 1918. For the purpose of this proceeding, and bearing in mind the possibility of crowding the work, I shall assume that the line will be completed by August 1, 1918.

The company has estimated a 100 per cent load factor on this pipe line during each month, with a delivery of 6,000,000 cubic feet per day in Bakersfield. I do not believe that this degree of perfection will be realized. I believe that the following estimate of natural gas purchased by the company for delivery through this pipe line during the months indicated, bearing in mind also the utilization of some natural gas from Valley Natural Gas Company at Bakersfield, may be reasonably used for the purpose of this proceeding;

August	160,000 M cubic feet
September	180,000 M cubic feet
October	180,000 M cubic feet
November	180,000 M cubic feet
December	100,000 M cubic feet
Total	800,000 M cubic feet



Assuming a purchase of 800,000 M cubic feet and a use at the plant of 760,000 M cubic feet and an oil equivalent of one barrel of oil to 5,500 cubic feet of natural gas, the natural gas to be secured by the company through this pipe line would take the place of 138,000 barrels of oil. The company will pay for this natural gas at the rate of 14 cents per 1,000 cubic feet.

The estimated cost to the company of fuel for 1918 is as follows:

Natural gas—800,000 M cubic feet at 14 cents.....	\$112,000 00
Fuel oil—January, February and March, 40,136 barrels.....	51,918 50
Fuel oil—April estimate, 2,000 barrels at \$1.40.....	2,800 00
Fuel oil—Remainder of year, 94,864 barrels at \$1.65.....	156,525 60
Total cost of fuel.....	<u>\$323,244 10</u>

For the purpose of this proceeding, I shall assume an expenditure of \$325,000.00 in 1918 for fuel.

On April 30, 1918, the company received notice from General Petroleum Corporation, from which company it has been purchasing its fuel oil, that on May 1, 1918, an increase of 25 cents per barrel became effective in the Standard Oil Company's quotations for oil in the Midway field, of the quality used by the company, and that the price charged by General Petroleum Corporation to the company will accordingly be increased in the same amount, as provided in the contract between these two companies, a copy whereof is in evidence herein as the company's Exhibit No. 25. The price to the company of fuel oil during the remaining months of 1918 is accordingly estimated at \$1.65 per barrel.

The increased cost of fuel oil is by far the largest additional expense which the company will incur in 1918. This item alone will increase from \$63,725.37 in 1917 to \$325,000.00 herein allowed for 1918. The cause for this very great increase is a combination of deficiency of snow and rainfall on the company's watershed and the increased cost of fuel oil. If it were not for the action of the company in bringing natural gas to its steam plant at Bakersfield, the increased cost of operation would be even greater than herein indicated.

### 3. Other operating expenses.

Company's Exhibit No. 15 contains a detailed statement, by accounts, of operating expenses actually incurred in 1916 and 1917 and all such expenses estimated for the year 1918 by Mr. Kenny. Mr. Kenny testified at considerable length, account by account, with reference to the estimated increased operating expenses for 1918. His testimony appears on pages 292 to 355, of the transcript herein.

Table IV shows a summary, by accounts, of the operating expenses of 1916 and 1917, and the company's estimate for 1918.

TABLE IV.

*Operating Expenses—Electric Department—1916, 1917 and 1918 (estimated).*

	1916	1917	1918 (estimated by company)
Production expense—fuel .....	\$21,985 65	\$63,725 37	\$377,417 59
Other than fuel.....	57,553 88	77,112 95	111,050 00
<b>Totals .....</b>	<b>\$79,539 53</b>	<b>\$140,838 32</b>	<b>\$488,467 59</b>
Transportation expense .....	31,680 57	33,213 10	37,616 00
Distribution expense .....	109,273 69	120,808 14	140,217 00
Commercial expense .....	85,632 91	103,657 56	116,250 00
General and miscellaneous expense.....	118,964 07	180,697 55	217,000 00
Taxes .....	88,091 52	99,608 53	125,000 00
<b>Totals, exclusive of fuel.....</b>	<b>\$521,196 64</b>	<b>\$615,097 83</b>	<b>\$747,137 50</b>
<b>Totals .....</b>	<b>\$546,182 29</b>	<b>\$678,823 20</b>	<b>\$1,124,575 09</b>
Uncollectible bills .....	4,800 00	4,729 07	5,000 00
<b>Total expense .....</b>	<b>\$550,982 29</b>	<b>\$683,552 27</b>	<b>\$1,129,575 09</b>

Referring now to the estimates for items other than the cost of fuel, the company's estimated operating expenses appear, in general, to be fairly reasonable and such as might be expected if the company were preparing a budget of expenses for the year. It is probable, however, that some items can be reduced without greatly impairing the efficiency of the company's operations.

Based on the expense for the last three months of 1917 and the first three months of 1918, it would appear that the estimate for Account No. 12—electric plant labor, should be reduced from \$30,000.00 to \$28,000.00. Account No. 15—general labor and supplies, amount \$12,000.00, seems a little out of line with past experience. Under Account No. 20, repairs to steam power plant equipment, the company has estimated \$11,000.00 being estimated cost of reblading the steam turbines at Bakersfield. The testimony shows that in all probability, this expenditure will not occur more than once in four or five years. It seems proper to prorate this item over five years, allowing \$1,000.00 for regular repair work and \$2,000.00 for one-fifth of the estimated cost of reblading the turbines.

I believe that Account No. 70, Railroad Commission Expense, can be reduced by at least \$2,000.00, for the reason that the expense chargeable to this account should be less this year than during the last few years.

Repairs to telephone lines should be reduced \$1,000.00.

In other respects, the estimates for 1918 should be allowed for the purpose of this proceeding.

**4. Taxes.**

The company presents an estimate of \$125,000.00 for taxes for the year 1918, which sum is allowed herein.

**5. Total operating expenses.**

Table V shows the operating expenses for 1918, as estimated and allowed herein.

**TABLE V.**

*Operating Expenses—Electric Department—Allowed for 1918.*

Production other than fuel-----	\$100,550 00
Fuel -----	325,000 00
	<hr/>
	\$425,550 00
Transmission -----	\$37,640 00
Distribution -----	140,217 00
Commercial -----	116,250 00
General -----	214,000 00
Taxes -----	125,000 00
	<hr/>
Total other than fuel-----	\$733,657 00
	<hr/>
Total -----	\$1,058,657 00
Uncollectible bills -----	5,000 00
	<hr/>
	\$1,063,657 00

The company's estimate for operating expenses for the same accounts was \$1,129,975 04

**IV.****RETURN ON RATES NOW IN EFFECT.**

The company estimates that at the rates now in effect, it will secure in 1918, a gross revenue of \$2,022,905.78 from its electric business. This estimate is based on assumptions of sale during each month in the year. The sales for the months of January, February, March and April have slightly exceeded the company's estimate of sales, although the excess has not been sufficient to justify a definite conclusion as to the extent to which the estimated sales and revenues of the company may be exceeded throughout the year.

Table VI shows the actual sales in kilowatt hours for each class of business in 1917, together with the 1918 sales in kilowatt hours, as herein assumed, and the total revenues therefrom, by classes of business, assuming the same average rate per kilowatt hour as in 1917.

TABLE VI.

*Sales and Revenue, in Kilowatt Hours - 1917 and 1918 (estimated).*

	Actual 1917 sales, k.w.h.	1918 sales, k.w.h., as estimated herein	Revenue per k.w.h., 1917	Revenue, 1918
Municipal street lighting.....	2,255,643	2,500,000	\$0.02346	\$57,650
Municipal lighting, miscellaneous.....	1,085,671	1,667,000	0.02426	40,441
Business lighting—				
(a) .....	4,813,491	5,757,000	0.01834	278,293
(b) .....	3,785,930	4,530,000	0.02302	99,751
Residence lighting .....	3,916,392	4,371,000	0.06897	301,468
Municipal power .....	1,275,823	1,500,000	0.02005	30,075
Industrial power .....	11,333,761	17,997,000	0.01773	319,087
Agricultural power .....	30,774,015	42,119,000	0.01260	530,699
Oil well power .....	11,606,784	17,527,000	0.00963	168,785
Wholesale power .....	31,922,313	38,158,311	0.00863	329,306
Miscellaneous power .....	1,070,085	1,466,000	0.00826	12,109
Company use .....	417,689	417,689		
<b>Totals .....</b>	<b>110,287,627</b>	<b>138,010,000</b>	<b>\$1.573</b>	<b>\$2,167,664</b>
Madera and Selma Water Works.....				6,000
<b>Total revenue .....</b>				<b>\$2,173,664</b>

I shall assume herein that if the existing rates continued in effect, the company would secure from its electric sales a gross revenue of \$2,150,000.00, in 1918.

Table VII shows the return secured from the company's electric department in the years 1916 and 1917 and the return for 1918, as estimated at existing rates by the company and by the commission herein.

TABLE VII.

*Returns From Electric Department—1916, 1917 and 1918 (estimated).*

Account	1916	1917	1918 (company's estimate)	1918 (as herein estimated)
Capital .....	\$9,982,377 01	\$11,237,302 16	\$12,859,640 93	\$12,764,105 29
Operating revenue .....	1,560,951 07	1,776,261 62	2,022,905 78	2,150,000 00
Operating expenses—				
Production .....	\$79,539 53	\$140,838 32	\$188,467 59	\$125,550 00
Transmission .....	34,680 57	33,213 10	37,640 00	37,640 00
Distribution .....	109,273 69	120,808 14	140,217 50	140,217 00
Commercial .....	85,632 91	103,657 56	116,250 00	116,250 00
General and miscellaneous.....	118,961 07	180,697 55	217,000 00	214,000 00
Taxes .....	88,091 52	99,608 54	125,000 00	125,000 00
Uncollectible bills .....	4,800 00	4,729 07	5,000 00	5,000 00
<b>Total operating expenses .....</b>	<b>\$550,982 29</b>	<b>\$683,552 27</b>	<b>\$1,129,575 59</b>	<b>\$1,063,657 00</b>
<b>Net revenue .....</b>	<b>\$1,009,968 78</b>	<b>\$1,092,709 35</b>	<b>\$892,330 69</b>	<b>\$1,086,343 00</b>
Annual depreciation .....	146,641 00	166,453 00	203,075 83	192,300 00
<b>Net return .....</b>	<b>\$863,327 78</b>	<b>\$926,256 35</b>	<b>\$689,254 86</b>	<b>\$894,043 00</b>
<b>Rate return .....</b>	<b>8.65%</b>	<b>8.24%</b>	<b>5.36%</b>	<b>7.00%</b>

Table VII shows that in 1916, the company received a return of 8.65 per cent and in 1917, 8.24 per cent. The company's estimated return for 1918, on the basis of the rates now in effect, is 5.36 per cent, while on the basis of the estimates herein made, the return would be 7 per cent.

If 1918 had been normal in the amount of snow and rainfall on the company's watersheds and if the price of fuel oil had not advanced, the company would have received a return, even at present rates, in excess of 8 per cent on its electric business, after paying increased costs of labor and materials and increased taxes.

## V.

### RATES HEREIN ESTABLISHED.

In Decision No. 3241, this commission allowed a return of 8 per cent on the rate base therein established. On the rate base herein established, the company will receive a return, at existing rates, of 7 per cent.

In determining the rate of return to be allowed to a public utility, careful consideration must be given, among other matters, to the ability of the utility to secure additional funds needed for extensions, betterments and improvements. The company serves exclusively an empire in the San Joaquin Valley and is being constantly called upon to make large numbers of extensions to meet the additional requirements of this territory. At the present time, the company is confronted with large numbers of applications for extensions, particularly for pumping to irrigate lands for the production of foodstuffs and for oil well pumping. Both these requirements are vital at this time. The company should be kept in sound and healthy condition, so that it can secure the additional funds needed by it for the construction of extensions and for the development of additional hydroelectric energy.

Mr. A. C. Bales, the company's vice president, testified that if the company were permitted to charge such rates as would enable it to receive a return of 8 per cent on its investment in the electric department, the company will be able to meet the requirements of its deed of trust or mortgage with reference to the issue of additional bonds. He also testified that in that event, he felt confident that the company would be able to sell additional securities, even during this time of war, in amounts sufficient to enable the company to complete its construction programme for 1918, involving an expenditure of approximately \$1,554,556.61.

Although the company is confronted with an abnormal condition and although on the basis of the snow and rainfall of a normal year the company would not be entitled to an increase in rates, I am strongly of the opinion that in view of the necessity of maintaining the company's financial stability, this commission should, without hesitation, enable the

company to meet the actual conditions with which it is confronted this year.

I see no reason for reducing the return of 8 per cent which this commission allowed in Decision No. 3241, even though operating expenses will very largely increase this year.

In order to realize the 8 per cent return, it will be necessary for the company to secure a gross revenue of approximately \$127,000.00, in addition to the gross revenue of \$2,150,000.00, herein estimated under existing rates. This sum amounts to 5.9 per cent of the sum of \$2,150,000.00 and approximately 10 per cent on the gross revenue which the company may expect to realize during the last six and one-half months of this year. Approximately 60 per cent of the company's revenue is received during the last six and one-half months of the year, and it is to this revenue alone that a surcharge may now be made applicable.

The rates heretofore established by this commission and now in effect on the company's system, were, to the best of the commission's ability, made just and reasonable and nondiscriminatory. The rate structure thus established should be allowed to remain intact and the necessary additional revenue should be secured by applying a surcharge of 10 per cent on all bills for all classes of service. In this way, this war burden will be borne with exact equality by all classes of the company's business.

If the estimates herein made prove to be in all respects correct, the "surcharge" will meet this year's obligations by the end of 1918. If the revenues should prove to be greater or the cost of service less than herein estimated, the surcharge can be remitted prior to December 31, 1918, while if the contrary should prove to be true, it can be permitted to remain in effect for such time as may be necessary subsequent to December 31, 1918. In this way, a flexible system will be provided by which, whenever 1918's obligations have been met, the surcharge will be automatically terminated. For the purpose of keeping advised with reference to the company's business, so that the period of the termination of the surcharge can be definitely and promptly ascertained, this proceeding will be kept open and the company will be directed to file herein, month by month, statements showing in such detail as may be requisite, the results of its electric operations for the month under consideration and also for the total period from January 1, 1918.

In order that all of the company's consumers may clearly understand the situation the company will be directed to continue to make out its bills under the rates heretofore in effect, showing separately, in addition thereto, the surcharge with a notation referring to the surcharge and reading substantially as follows:

"Additional charge to cover present increased cost of operation—  
10 per cent."

## VI.

**RULES AND REGULATIONS FOR EXTENSIONS.**

The company, at the hearing, asked the commission to establish herein definite rules and regulations to govern the making of extensions. The company stated, in this connection, that it would be satisfied with the rules and regulations for extensions which were established by this commission by Decision No. 5315, made on April 16, 1918, in Application No. 3566, *Mount Whitney Power and Electric Company*. The order herein will authorize the company to establish these rules and regulations.

The company reports that it is proceeding actively to make extensions, as requested, in the order of time at which the requests are made, and under a definite priority list established by it, and filed herein as "Petitioner's Exhibit No. 22."

## VII.

**INFORMAL COMPLAINTS.**

A number of consumers and intending consumers of the company testified herein with reference to their desire to secure extensions and service from the company and with reference to other matters.

At the suggestion of the company, it was stipulated herein that all informal complaints against the company for extensions of service, now pending before this commission, might be considered in evidence herein and that the commission should herein make its ruling as to what disposition the company should make in each such instance. Most of these informal complaints will be automatically taken care of by the rules and regulations for extensions set forth in the order herein.

**1. *Fresno Rock and Products Company.***

This matter was testified to at the hearing in Fresno on April 8, 1918. This company has expended, according to its testimony, \$75,000.00 on its plant. Negotiations for service were entered into in September, 1917. To serve this consumer would require a change of location of a portion of the existing line and the installation of transformers. If it has not already done so, the company should serve this consumer without delay.

**2. *S. L. Heisinger.***

Mr. Heisinger testified on April 8, 1918, and presented a complaint against a charge for service while his motor was disconnected. The company has agreed to adjust this consumer's bill in accordance with its general practice and the consumer has been so advised. Final adjustment awaits the receipt of further information from the company.

3. *S. K. Hillhouse.*

Mr. Hillhouse testified on April 8, 1918, that he desires service for a five-horsepower motor for irrigation near Porterville. He should be served in his order, as set forth on the priority list.

4. *Sharp and Fellows Contracting Company.*

Testimony concerning this company's operations at Piedra was presented herein on April 8, 1918, by the company's superintendent, Mr. N. J. Gannon. The company complains concerning the rate for power served to its rock crusher near Piedra. The plant was originally installed to crush rock for The Atchison, Topeka and Santa Fe Railway Company and is of large capacity, requiring approximately 200 kilowatts to operate. During the last two years or so, the plant has been operated intermittently for small contracting business and at a low load factor. The company's difficulty arises from the low load factor at which its plant is operated and the high demand which it requires. In 1917, based upon 200 kilowatts maximum demand, the company's load factor was five per cent and the average rate 2.67 cents per kilowatt hour. For the load factor conditions, this is not an exorbitant rate. Under the circumstances I can not advise that any adjustment be made for this consumer.

5. I. C. 13371—*Chris Laugesen et al.*, Del Rey.

Extension for lighting service in unincorporated territory. Estimated cost of extension, \$870.00. Estimated annual revenue, \$108.00. These consumers should comply with the 33 $\frac{1}{3}$  per cent rule if they desire service.

6. I. C. 13406—*E. E. Kcyes*, Chowehilla.

Line extension. This extension has been made, as applicants placed themselves within the 33 $\frac{1}{3}$  per cent rule.

7. I. C. 13435—*J. S. Chambers et al.*, Fowler.

Thirty-six horsepower motors. Estimated cost, \$4,400.00. Estimated annual revenue, \$700.00. The company is to submit a revised estimate. Extension should be made if applicants bring themselves within rules for extensions herein established.

8. I. C. 13472—*Orral M. Davis*, Fairmead.

Request for line extension. The company reported on May 7, 1918, that at the present rate of progress, this extension should be installed by May 25, 1918.

9. I. C. 13488—*A. Costello*, Route D, Box 189, Fresno.

Extension for lighting service in rural territory. Estimated cost to company, \$172.00 and estimated cost on private property, \$193.00. This



extension should be made if the consumer advances the cost on private property.

10. I. C. 13518—*W. R. Van Noy*, Dinuba.

35½ horsepower motor. Auxiliary service to irrigation ditch water. Estimated cost, \$9,650.00. Estimated annual revenue approximately \$938.00. Applicant has been advised that extension is not justified.

11. I. C. 13524—*F. H. Bear*, Orange Cove.

Line extension. Application for service was made in November or December, 1917, and company has agreed to give applicant revised priority list accordingly. Extension will be made in revised turn.

12. I. C. 13727—*J. E. Johnson*, Kingsburg.

Lighting service in Kingsburg. The company reports that this extension will be made but requests delay while extensions for irrigation consumers are made. Service should be rendered in accordance with priority list, unless priority is waived.

13. I. C. 13921—*W. L. Olinger et al.*, Del Rey.

Extension for lighting purposes in rural territory. Estimated cost of extension, \$1,655.00; estimated annual revenue, \$180.00. This extension is not justified by the revenue and applicant has been so advised.

14. I. C. 13982—*Paul Zscheile*, Chowchilla.

Extension for irrigation pumping service. This applicant has been placed on the priority list and will receive service in order.

15. I. C. 14003—*Duncan MacLerman, Jr.*, Bakersfield.

Extension for lighting service. Estimated cost, \$134.00; estimated annual revenue, \$9.00. Extension within city limits of Bakersfield. Extension should be made in accordance with Rule 15, established by Decision No. 2879, in Case No. 683 (Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 372, 381), unless company shows good reason to the contrary.

16. I. C. 14080—*Charles E. Lamberson*, Corcoran.

Extension for agricultural service five miles south of Corcoran. The company has approved the extension but the application was not made until April 8, 1918, and applicant's priority number is 540.

While the order herein will not specifically refer to the informal complaints and to the complaints presented at the hearings, herein set forth, the company will be expected to dispose of them in accordance with the suggestions herein made. The company has a large number of applications for extensions on its priority list and will be entitled to

commendation for making these extensions as promptly as possible. The increase of rates herein authorized is being granted largely on the assumption that the company will thereby be enabled to proceed promptly to make the extensions for irrigation, oil well pumping, and other services which have been requested of it, as well as the additional hydroelectric development contemplated.

I submit herewith the following form of order:

**ORDER.**

San Joaquin Light and Power Corporation having filed herein its petition asking authority to increase its rates charged for electric energy by making a temporary surcharge, as indicated in the opinion which precedes this order, public hearings having been held, this proceeding having been submitted and being now ready for decision,

The Railroad Commission hereby finds as a fact that the existing rates for electric energy sold by San Joaquin Light and Power Corporation are under existing conditions unjust and unreasonable and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing finding of fact and on the other findings of fact which are contained in the opinion which precedes this order,

The Railroad Commission hereby authorizes San Joaquin Light and Power Corporation to charge and collect a temporary surcharge of ten (10) per cent on each and every bill for electric service, effective for all meter readings taken on and after June 15, 1918, where metered service is rendered, and effective for all flat rate service billed on and after June 1, 1918, on the following conditions:

1. Said surcharge is to be charged only until San Joaquin Light and Power Corporation has been enabled to meet its 1918 expenses in connection with its electric business to such an extent as to enable the company to receive an eight (8) per cent return on the rate base established in the opinion which precedes this order.

2. This order shall not be construed as disturbing the structure of rates established by this commission in Decision No. 3241, to be charged by San Joaquin Light and Power Corporation; but said corporation, in addition to showing on its bills for electric energy the amount due under the rates heretofore established by this commission in said decision, shall also show separately the surcharge herein authorized, together with a note referring to said surcharge, in substantially the following language:

“Additional charge to cover present increased cost of operation – 10 per cent.”

3. On or before the twentieth day of each month, San Joaquin Light and Power Corporation shall file with the Railroad Commission herein,

reports in such form as may be prescribed by the commission, showing the results of its operations from its electric business during the preceding month and during the period from January 1, 1918 to the last day of said preceding month.

4. This proceeding is hereby kept open and the Railroad Commission hereby retains jurisdiction to issue a supplemental order terminating said surcharge whenever the revenues of San Joaquin Light and Power Corporation received thereunder shall be sufficient for the purpose specified in the opinion which precedes this order, and to make such other order or orders as may seem just and proper.

*It is further ordered* that San Joaquin Light and Power Corporation be and the same is hereby authorized to make effective the following rules and regulations applicable to the making of extensions for electric service:

(1) The company will at its own expense make all extensions in cases in which the annual gross revenue equals or exceeds 33 $\frac{1}{3}$  per cent of the cost of the extension.

(2) Where the annual gross revenue to be secured from any extension is less than 33 $\frac{1}{3}$  per cent but more than 20 per cent of the cost of the extension, the company will make the extension provided that the applicant advances the entire cost of the extension to be refunded upon the basis of 20 per cent of the monthly bills. The applicant, however, may at his own cost construct sufficient of said extension so that the amount to be expended by the company shall not exceed three times the annual gross revenue or may contract, in form satisfactory to the company, to take such service that the annual gross revenue paid by him shall be equal to 33 $\frac{1}{3}$  per cent of the cost of the extension to the company, whereupon Rule I shall apply.

(3) Until the further order of the Railroad Commission, applications for service in which the annual gross revenue will be less than 20 per cent of the cost to the company of the extension need not be accepted by the company.

(4) Extensions within incorporated cities or towns shall be made as provided in Rule 15 of the Rules and Regulations established by the Railroad Commission on November 5, 1915, in Decision No. 2879, in Case No. 683.

*It is further ordered* that all extensions made by San Joaquin Light and Power Corporation within one year prior to the date of this order shall be adjusted if requested by the consumer within 90 days from the date of this order, on the basis of the rules and regulations herein established. San Joaquin Light and Power Corporation is directed to send a copy of this order within thirty days from the date of this order, to each consumer for whom an extension has been constructed subsequent to January 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-eighth day of May, 1918.

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DECISION No. 5450.

IN THE MATTER OF THE APPLICATION OF MRS. CORISTA GUBBINI  
FOR AUTHORITY TO INCREASE THE RATE FOR WATER SERVICE.

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Application No. 3660.

*Decided May 29, 1918.*

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BY THE COMMISSION.

**OPINION.**

This is an application by Mrs. Corista Guibbini for an order authorizing an increase in the water rate charged by applicant for water sold at Iverness, Marin County.

A public hearing in this proceeding was held at Iverness on April 22, 1918, before Examiner Westover. Evidence was presented in behalf of petitioner herein, no consumers being present and no evidence being presented in their behalf although they had previous notification of the hearing.

The evidence shows that previous to 1916 the rate charged was \$5.00 per annum but in 1916 and 1917 applicant collected \$8.00 per annum from consumers. One consumer protested against this raise in rates without the authority of the commission and the utility filed this application asking that \$8.00 per annum be made the legal rate.

The water supply for this utility is obtained from several springs and a tunnel, all of which are contained in the ranch of applicant on a hillside above the town. From these sources of supply pipe lines distribute the water to 23 consumers. Formerly 34 consumers were supplied but it was found to be more satisfactory to applicant for some of them, on account of their location, to obtain water from the Hamilton Water System which operates in the vicinity and they are now so supplied.

All of the consumers use water during practically every month in the year although continuous residence does not occur, and the bulk of the water is served during the summer months. It appears that a yearly rate is suited to the conditions and also that the facilities and water use of the different consumers is so similar that a uniform flat rate is just.

No appraisal of the property was presented at the hearing but an examination was made by Milo H. Brinkley, one of the commission's

engineers, and a stipulation was made that he should report at a later date. His report has now been made, and the estimate is as follows:

Reproduction cost .....	\$3,463 00
Annual depreciation, 5 per cent sinking fund.....	43 00

In this estimate is included one acre of land which is considered sufficient for water bearing purposes.

This plant formerly served a larger number of consumers and it appears to be of excessive capacity for the present consumers. It also gives irrigation service to the owner and this should be considered in apportioning the plant cost to consumers. It is believed that a proportion of the plant cost not in excess of \$1,500.00 is all that should be chargeable for water service to the present consumers.

Testimony shows that the cost of operation amounts to \$60.00 per year.

The following tabulation shows the annual gross income which applicant should receive from consumers under the allowances herein found to be reasonable.

Return .....	\$120 00
Operating expenses and taxes.....	60 00
Depreciation .....	20 00
Total .....	\$200 00

It is found that a rate of \$8.00 per annum per consumer will give sufficient revenue for the annual charges if proper allowance is made for irrigation service to the owner.

#### ORDER.

Mrs. Corista Guibbini having applied to the Railroad Commission for an order authorizing an increase in the rates to be charged her consumers for water, and a public hearing having been held, and the commission being fully advised in the premises, it is hereby found as a fact by the Railroad Commission of the state of California that the rate set out in this order is a just and reasonable rate to be charged by applicant to its consumers for water.

Basing its order on the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

*It is hereby ordered* that applicant is authorized to file with this commission the following schedule of rates, said rates to become effective June 1, 1918.

#### *Flat Rate.*

Annual charge per consumer.....	\$8 00
Said rate to be payable in advance on May 1 of each year.	

Dated at San Francisco, California, this twenty-ninth day of May, 1918.

## DECISION No. 5451.

IN THE MATTER OF THE APPLICATION OF TITLE GUARANTEE AND TRUST COMPANY, TRUSTEE FOR THE BONDHOLDERS OF GLENDALE CONSOLIDATED WATER COMPANY, FOR AN ORDER AUTHORIZING SALE OF ITS WATER SYSTEM TO THE CITY OF GLENDALE.

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Application No. 3760.

*Decided May 29, 1918.*

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*E. W. Sargent* and *W. G. Cooke*, for Title Guarantee and Trust Company.

*W. E. Evans*, city attorney, for city of Glendale.

BY THE COMMISSION.

**OPINION.**

Title Guarantee and Trust Company as trustee for the bondholders of Glendale Consolidated Water Company seeks authority to convey to the city of Glendale, a municipal corporation adjoining Los Angeles on the north, a domestic water system, which as such trustee it has operated for several years past.

A public hearing herein was held by Examiner Westover in Los Angeles on May 22, 1918.

The system in question serves the territory which was formerly within the city of Tropico and recently annexed to the city of Glendale, and in which are about 765 consumers, and also the adjoining territory in the city of Los Angeles, known as Park Avenue Tract, in which are about 20 consumers. The property is to be operated by the city of Glendale in connection with its present system and will, it states, result in better pressure owing to the greater elevation of the city's reservoirs.

A full history and description of the system is contained in Decision No. 3275 of April 21, 1916, in Case No. 864. (See Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 764.)

The city of Glendale has recently issued bonds in the sum of \$55,500.00 for the purpose of acquiring the property, which bonds it has sold at par and accrued interest, and has agreed with the Title Company upon the purchase price of \$55,150.00 cash.

In the case above referred to the estimated reproduction cost of the tangible property less depreciation was found by the commission to be \$49,709.00. This did not include water rights in the stream flowing in Verdugo Canyon, stock in pipe line company, nor a reservoir site valued by the company at \$1,340.00 which was not then used or useful as part of its system. The water rights, stock and reservoir site, however, are included in the above purchase price of \$55,150.00.

The present water rate applied by the city of Glendale within its territorial limits is a minimum of \$1.00 per month for 1,000 cubic feet

or less of water, and 2 cents for each additional 100 cubic feet. The present measured rates of the Title Company within the former territorial limits of Tropicco as fixed by the Railroad Commission in the above case, are a monthly minimum of 75 cents per 400 cubic feet of water or less, 10 cents per hundred cubic feet for the next 1,600 cubic feet, and 6 cents per 100 cubic feet in excess of 2,000 cubic feet; besides flat rates, and rates for municipal sprinkling and sewer flushing and fire service.

Present rates in the Park Avenue Tract, as fixed by the city of Los Angeles, are a monthly minimum of \$1.50 for 800 cubic feet of water, and 8 cents per hundred cubic feet for use above that quantity. The present Glendale rates to consumers outside of its territorial limits are a \$1.25 monthly minimum, for 800 cubic feet of water or less, and 8 cents per 100 cubic feet for water used in excess of that quantity.

The city of Glendale, which joins in the application, proposes to apply its present rates to all consumers of the Title Company's system, so that both Tropicco consumers now within the limits of Glendale and Park Avenue Tract consumers who are beyond its limits will receive improved service at a lower rate than they now enjoy. The city also expressly assumes the obligation to serve patrons now on said system, and assures a service better than that now enjoyed by the consumers of the Title Company.

#### ORDER.

Title Guarantee and Trust Company, as trustee for the bondholders of Glendale Consolidated Water Company, having applied to the Railroad Commission for an order authorizing the conveyance to the city of Glendale of the water system operated in the territory formerly within the limits of the city of Tropicco but now annexed to the city of Glendale, which said city joins in the application, and a public hearing having been held thereon, and the matter being now ready for decision,

*It is hereby ordered* that Title Guarantee and Trust Company, as trustee for the bondholders of Glendale Consolidated Water Company be and it is hereby authorized to convey to the city of Glendale, a municipal corporation, for the sum of \$55,150.00 cash, property described as follows, to wit:

All of the property at this time connected with and belonging to and constituting what is known as the Tropicco water plant and system, now located in the territory formerly known as the city of Tropicco, but now a part of the city of Glendale and in the adjacent territory in the city of Los Angeles known as Park Avenue Tract, including pipe, pipe lines, wells, services, meters, engines, pumps, machinery and appliances, together with 1114 $\frac{1}{2}$  shares of the capital stock of Verdugo Canyon Water Company and 1114 $\frac{1}{2}$  10,000 of the water flowing in Verdugo Canyon

stream, said property being more particularly described in Exhibit "A" attached to the application herein, but not including office supplies and furniture, tools, materials on hand, accounts, bills receivable and cash.

Also the following described real property:

*Parcel 1.* Part of lot three (3) of the Childs Tract, in the Rancho San Rafael, in the county of Los Angeles, state of California, as per map recorded in Book 5, page 157, Miscellaneous Records of said county, described as follows:

Beginning at the northeast corner of said lot; thence south along the east line of said lot four and five hundred forty-five thousandths (4.545) chains; thence north eighty-nine ( $89^{\circ}$ ) degrees forty-five minutes ( $45'$ ) west, three and seventy-four hundredths (3.74) chains; thence north four and five hundred forty-five thousandths (4.545) chains to the north line of said lot; thence east along said north line three and seventy-four hundredths (3.74) chains to the place of beginning; containing two (2) acres, more or less; except such part thereof taken for street purposes, together with the reservoir located thereon.

*Parcel 2.* That part of lot fifteen (15) in block "B" of the Heide-Boynton Tract, in the Rancho San Rafael, county of Los Angeles, state of California, as per map recorded in Book 12, page 80 of Maps, in the office of the County Recorder of said county, described as follows:

Beginning at the southeast corner of said lot; thence northerly along the east line thereof two hundred (200) feet; thence north  $88^{\circ} 34'$  west, two hundred eighteen and sixty-three hundredths (218.63) feet; thence northwesterly parallel with the southwesterly line of said lot one hundred twenty-nine and sixteen hundredths (129.16) feet, more or less, to a point in the easterly line of the land conveyed by Henry Heide and Ethel Frances Heide to D. Griswold, by deed dated April 8, 1908, filed for record April 30, 1908, at or near an angle in said line; thence southwesterly along said easterly line of said land so conveyed to said Griswold twenty (20) feet, more or less, to the southwesterly line of said lot; thence southeasterly along said southwesterly line four hundred fourteen and six hundredths (414.06) feet to the most southerly corner of said lot; thence easterly along the south line of said lot eighteen and forty-eight hundredths (18.48) feet, to the place of beginning.

*Parcel 3.* Lots one (1) and two (2) of block two (2) of Breedlove's Subdivision of a part of lots eight (8), nine (9) and ten (10), Watt's Subdivision of a part of Rancho San Rafael, in the county of Los Angeles, state of California, as per map recorded in Book 10, page 94 of Maps, in the office of the County Recorder of said county, together with the wells located thereon.

This authority is granted upon the following conditions:

1. This authority shall extend only to such conveyance as shall be executed and delivered within thirty (30) days from the date hereof.



Within ten (10) days after said conveyance is executed and delivered, said Title Guarantee and Trust Company, as such trustee, shall file with the Railroad Commission a copy of said conveyance as executed by it.

Dated at San Francisco, California, this twenty-ninth day of May, 1918.

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DECISION No. 5455.

IN THE MATTER OF THE APPLICATION OF CROKER LAND COMPANY, A CORPORATION, AND MARIN MUNICIPAL WATER DISTRICT, A PUBLIC CORPORATION, FOR AN ORDER AUTHORIZING SAID CROKER LAND COMPANY TO SELL CERTAIN PROPERTY AND TO LEASE OTHER PROPERTY TO SAID MARIN MUNICIPAL WATER DISTRICT.

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Application No. 3785.

*Decided June 4, 1918.*

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BY THE COMMISSION.

**ORDER.**

Croker Land Company having applied to this commission for authority to sell certain property to Marin Municipal Water District in accordance with the form of agreement attached to the application in this proceeding marked Exhibit "A," the property to be sold being described in the application as follows:

All that certain real property situate, lying and being at Fairfax, in the county of Marin, state of California, comprising the "Croker Water System," described as follows, to wit:

*First:* That certain lot or parcel of land marked "Tank Lot" on Sheet No. 2 of that certain map entitled "Map No. 3 Deer Park, Fairfax, Marin Co., Cal.," recorded in the office of the County Recorder of the county of Marin, state of California, in Book 4 of Maps at page 96, and more particularly described as follows, to wit:

Commencing at the most northerly corner of lot designated "N" on said map and running thence along the southwesterly line of an unnamed street north  $14^{\circ} 35'$  west 78 feet; thence leaving said line of said street south  $45^{\circ} 36'$  west 108.6 feet; thence south  $50^{\circ} 54'$  east 50.5 feet and thence north  $61^{\circ} 13'$  east 66.9 feet to the point of commencement.

Together with a right of way over, along and upon that certain alley running along the westerly boundary line of said lot "N" and continuing in a straight line from the southwesterly end of said alley through and across lots Nos. 300 and 301 as shown on said Map 3, Sheet No. 3 thereof. Said right of way being deeded for the purpose of laying, maintaining, removing, repairing and otherwise altering and keeping up two or more lines of water pipe, under, through and across the same, and along the line now occupied by two lines of pipe running from a concrete valve box at the head of

Meernaa street across said lots 300 and 301 to said alley and thence up said alley to said tank lot.

*Second:* All water mains, pipes, pipe lines, service connections, meters, valves, hydrants and other appliances now used upon and connected with the water system of the party of the first part (excepting, however, wells, pumps, pump houses, machinery, tools and fittings now located on Lot No. 118 as laid down and delineated on Map No. 1, Deer Park, Fairfax, Marin Co., Cal. 1907," recorded in the office of the County Recorder of the county of Marin, state of California, in Book 2 of Maps at page 105.)

And also all water, pipes, service connections, meters, and appurtenances now located in the county road adjacent to Deer Park and in the Pacheco Tract at Fairfax, and in that certain tract of land lying northwesterly of the Fairfax and Bolinas County road known as the "Fairfax Park Tract," and also all pipes, mains, meters and service connections lying in the County Road adjacent to Fairfax Station and crossing the railroad tract and connecting with the mains of the party of the second part and the right of way to lay, maintain, repair and remove such water pipes, meters and service connections over and along all streets and alleys laid down and delineated upon maps Nos. 1, 2 and 3 of Deer Park as the same are filed in the office of the County Recorder of the county of Marin, state of California;

and having applied for authority to lease to Marin Municipal Water District, in accordance with the form of lease attached to the application marked Exhibit "B," the following described property:

Lot No. 118 as the same is laid down and delineated upon "Map No. 1 Deer Park, Fairfax, Marin Co., Cal. 1907," which said map was recorded in the office of the County Recorder of the county of Marin, state of California, in Map Book 2, at page 105; together with all wells, pumps, pump houses, machinery, pipes and all appliances located thereon used or useful for the purpose of supplying or pumping water.

And it appearing to the commission that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that the application herein be and the same is hereby granted; provided, that the authority herein granted to transfer said property shall apply only to such property as is transferred on or before the thirtieth day of June, 1918, and that the consideration given for the property herein authorized to be transferred shall not be taken before this commission or any other public body as a value for rate-fixing purposes; and provided, further, that a certified copy of the deed of conveyance and lease executed in accordance with this order shall be filed with this commission within fifteen (15) days after the execution thereof.

Dated at San Francisco, California, this fourth day of June, 1918

DECISION No. 5456,  
IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC  
SERVICE CORPORATION FOR AUTHORITY TO RENEW CERTAIN  
NOTES.

Application No. 3759.

*Decided June 1, 1918.*

*Short & Sutherland, by B. N. Jefferson, for Applicant.*

BY THE COMMISSION.

**OPINION.**

Midland Counties Public Service Corporation applies for authority to renew for periods not exceeding an aggregate of one year from their respective dates of maturity the promissory notes set forth in the order.

A public hearing upon the application was held by Examiner Westover.

From the testimony presented it appears that the proceeds of all the notes in question were used for capital purposes and that all but the one last described were issued pursuant to authority contained in Decision No. 4320 of May 17, 1917. (See Vol. 13, Opinions and Orders of the Railroad Commission, p. 242.)

Under existing conditions applicant prefers to finance its operations by the issue of notes rather than by the sale of bonds heretofore authorized by the commission.

**ORDER.**

Midland Counties Public Service Corporation having applied to this commission for authority to issue \$56,000.00 face value of promissory notes for the purpose of renewing other notes now outstanding as hereinbefore set forth, and a public hearing having been held and it appearing to this commission that the money to be procured by such issue is reasonably required for the purposes specified in the order, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Midland Counties Public Service Corporation be and it is hereby authorized to issue its promissory notes for a term not exceeding one year for the purpose of renewing the following promissory notes now outstanding:

Date	Payee	Rate, per cent	Amount	Due date
3-25-18	First National Bank of Coalinga.....	6	\$6,500 00	6/25/18
1-25-18	Union National Bank of Fresno.....	6	11,500 00	5/25/18
2-16-18	Westinghouse Electric Manufacturing Co.....	6	9,000 00	5/17/18
2-23-18	J. A. Roebblings Sons Company.....	6	11,000 00	5/23/18
3-15-18	Bank and Trust Co. of Central California...	6	11,500 00	6/13/17
3-28-18	Western Electric Company.....	6	6,500 00	6/28/18

The above authority is granted upon the following conditions:

1. The notes herein authorized to be issued shall be issued so as to net applicant not less than the face value thereof.
2. The notes herein authorized to be issued shall be issued to the same payees at the same rates of interest and in the same amounts as the notes which they are given to renew.
3. Applicant may, if it so desires, issue notes for a period of less than one year and renew said notes from time to time, provided that the combined terms of the notes herein authorized and those issued in renewal thereof shall not exceed one year.
4. Midland Counties Public Service Corporation shall report to the Railroad Commission within ten days after the issue of the respective notes hereby authorized, the fact and the date of issue, the face value of the respective notes, the rate of interest and the application of the proceeds, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.
5. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.
6. The authority herein granted shall apply only to notes issued on or before July 1, 1918.

Dated at San Francisco, California, this fourth day of June, 1918.

Decision No. 5457.

JAMES B. HERSHEY

*vs.*

OCEAN SHORE DEVELOPMENT COMPANY AND WILLIAM H. GROSS  
KURTH, MANAGER.

Case No. 1180.

ARTURO ANDREONI AND D. KENNEDY

*vs.*

MOSS BEACH REALTY COMPANY.

Case No. 1205.

IN THE MATTER OF THE APPLICATION OF OCEAN SHORE DEVELOP-  
MENT COMPANY, A CORPORATION, FOR AN ORDER PERMITTING  
THE APPLICANT TO DISCONTINUE SERVICE.

Application No. 3689.

*Decided June 4, 1918.*

*James B. Hershey, in propria persona.*

*Arturo Andreoni, in propria persona.*

*D. Kennedy, in propria persona.*

*Byrne & Lamson*, by *J. S. Lamson*, for Ocean Shore Development Company and *W. H. Grosskurth*,  
*C. B. Smith*, for Moss Beach Realty Company.

BY THE COMMISSION.

**OPINION.**

The complaints in the above cases allege failure to furnish water. The Moss Beach Realty Company answers that it does not serve consumers in the district where complainants in Case No. 1205 reside. Defendants in Case No. 1180 allege in their answer that neither of the defendants is a public utility nor engaged in the business of furnishing water for public use and neither of them has agreed to furnish water to complainant Hershy.

The principal question as between defendants is which one is under obligation to serve.

A public hearing was held in both cases by Examiner Westover at San Francisco, April 18, 1918. Both cases were consolidated for hearing and decision. It was stipulated that the application for leave to discontinue service to be later filed, might be submitted on the evidence presented at the hearing.

Defendant, Ocean Shore Development Company, subdivided and marketed several real estate subdivisions near Moss Beach, San Mateo County, which will be referred to herein as Marine View, laid water pipes therein about 1909 and installed about 17 services in two groups. One group of 9 services, located in the vicinity of the well and pumping plant, installed by it about that time near the hotel on the beach, has usually been served from said pumping plant. The other group of 8 services, mostly east of the railroad tracks of the Ocean Shore Railroad, has usually been served with water purchased from Moss Beach Realty Company. The services of complainants, Hershy and Kennedy, are in the latter group. Littlepage, Horigan & Cohen, a copartnership, subdivided and marketed a tract of six blocks adjoining, called the Civic Center Tract, and laid a pipe about three blocks long through which complainant Andreoni is served.

Moss Beach Realty Company, which serves about 35 consumers in and about Moss Beach also serves one residence in the Marine View properties from its own mains, at a point about where the properties join. Very near that point there is also a connection and meter in the Civic Center pipe through which complainant Andreoni is served.

Marine View and several subdivisions marketed and served by Moss Beach Realty Company, and herein referred to as Moss Beach, lying to the west of Marine View, can be served with water supplied by Montara Realty Development. Water is now delivered by it to the pipe line of the Moss Beach Realty Company at the edge of Montara Tract, and

conveyed a distance of about a mile to Moss Beach, and thence to a connection at the corner of Vermont and Buena Vista streets with the pipes of the Ocean Shore Company.

October 8 last the Moss Beach water was cut off at the Buena Vista street connection by direction of the Ocean Shore Development Company. Since then the three complainants have had interrupted service from the pumping plant, and Complainant Hershy, whose residence is at a higher elevation than the others, has been without water for considerable intervals when water is low in the tank near the hotel. Water will not flow into his house until it is about four feet deep in the tank. Prior to October 8 there was no complaint of service. Complainants prefer service from Moss Beach Realty Company and have applied for service from that company, which has been declined by it.

Ocean Shore Development Company during the period when it was improving its property with sidewalks, etc., used large quantities of water purchased from Moss Beach Realty Company, settlement being made at intervals of a few months on meter readings. Large amounts of this water were also used by private consumers on the Marine View properties. The custom was for the Ocean Shore to prorate each bill between the various private consumers and itself and collect and remit to the Moss Beach Company. After several years, when the Ocean Shore no longer used water, the custom of collecting and remitting continued, though the company always failed to collect sufficient to cover the full bill. No bills were charged to individual consumers, the Moss Beach Company declining to serve them at their request or at the request of the Ocean Shore because there were no meters installed on the Ocean Shore services.

Ocean Shore Development Company finally declined to be further responsible for water charges and upon its direction water was finally turned off about October 8, 1917. Thereafter the commission informally directed the Ocean Shore people to furnish water from its pumping plant or otherwise until the matter could be brought formally to the attention of the commission. To this end the company caused formal applications to be made to the Moss Beach Company for service and caused the complaint in Case No. 1205 to be filed.

The position of Ocean Shore Development Company is that for several years it has acted only as a collecting agency for Moss Beach Company. It is conceded, however, that it never was formally appointed agent or requested to act in that capacity. Moss Beach company has treated it merely as a patron using a large amount of water, and has declined to attempt to serve water to individual consumers on the Ocean Shore system.

Ocean Shore Development Company owns the only pipes and facilities through which complainants Hershy and Kennedy can be served, and

has had free use of the pipe in Civic Center Tract, leading to the service of complainant Andreoni. Complainants have dealt only with it. Complaint in Case No. 1205 against Moss Beach Realty Company must be dismissed as that company has no facilities for serving complainants therein, and has not offered to do so, but has only served the Ocean Shore. Ocean Shore Development Company has been serving water in the past for compensation to complainants and others in Marine View, under the circumstances above described, and it necessarily follows that it is a public utility selling water for compensation. It is under obligation to serve all three complainants.

The order will provide for adequate service by Ocean Shore Development Company for patrons on its lines.

Moss Beach Realty Company charges the Ocean Shore Company its regular rate of \$1.00 for the first 200 cubic feet per month and 30 cents each additional 100 cubic feet. It expressed a willingness at the hearing to establish a rate which would be available to the Ocean Shore people of 22.5 cents per 100 cubic feet for all water in excess of 1,000 cubic feet per month. We understand schedule showing such rate will be promptly filed, which the Moss Beach company may do without hearing or special authority.

Several attempts were made by defendants at the suggestion of the examiner during the course of the hearing, to reach an agreement by which the Moss Beach people take over the pipes in the Marine View properties and supply water, but without success.

The Ocean Shore people offered their distributing system as a gift but it was declined. Mr. Littlepage also offered the Civic Center pipe as a gift to either defendant who would operate it. The commission is without authority to compel any transfer with or without compensation.

It must therefore require Ocean Shore Development Company to further discharge its obligations to its patrons, including complainants Andreoni and Kennedy, and deny its application for authority to discontinue service.

Complaint against William H. Grosskurth should be dismissed as he is not a proper party defendant.

Complainant Hershy can be best served by Moss Beach Realty Company with the aid of a small amount of pipe, now part of the Ocean Shore system, and which that company should under the circumstances donate for the purpose. We suggest that this course be followed by the parties. The matter can not well be covered by the order in either of the present proceedings as Moss Beach Realty Company is not a party to Case No. 1180, in which Mr. Hershy is complainant.

**ORDER.**

A public hearing having been held upon the above-entitled cases and application, the matters having been submitted and being now ready for decision,

*It is hereby ordered* that Ocean Shore Development Company serve water to complainants Andreoni and Kennedy at its established schedule of rates under its usual rules and regulations, without discrimination and that it provide adequate service to said complainants and to its other patrons.

Application of said Ocean Shore Development Company to discontinue service of water is hereby denied.

Complaint against Moss Beach Realty Company in Case No. 1205 is hereby dismissed, and complaint of James G. Hershey in Case No. 1180 is dismissed as to William H. Grosskurth only.

Dated at San Francisco, California, this fourth day of June, 1918.

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Decision No. 5460.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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Application No. 3761.

*Decided June 4, 1918.*

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BY THE COMMISSION.

**ORDER.**

Whereas San Joaquin Light and Power Corporation has applied to this commission for an order preliminary to a certificate of public convenience and necessity to exercise rights and privileges under a franchise for the transmission and distribution of gas in a certain district of the county of Kern; and

Whereas applicant desires to construct and operate a gas transmission main approximately 24 miles in length of suitable dimensions to connect the Bakersfield steam plant with the Midway Gas Company's transmission main for the purpose of supplying said steam plant with natural gas for fuel; and

Whereas the substitution of natural gas for crude oil now being used for fuel in said steam plant will be to the advantage of the company and its consumers and will assist in the conservation of fuel oil; and

Whereas Valley Natural Gas Company, the gas distributing company in this district, has signified that it is not opposed to the granting



of a certificate for the purpose of delivering gas to the Bakersfield steam plant of applicant.

The Railroad Commission of the state of California hereby declares that hereafter, upon application of San Joaquin Light and Power Corporation made after said company has obtained a franchise from the county of Kern, a copy of the proposed franchise being attached to and made a part of this application, and covering the territory in Kern County more particularly described as follows, to wit:

Sec. 3, 4, 9, 10, 15 and 16, T. 11 N., R. 20 W.; Sec. 27, 28, 33 and 34, T. 12 N., R. 20 W.; Sec. 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32, T. 32 S., R. 28 E.; Sec. 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, T. 31 S., R. 28 E.; Sec. 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, T. 30 S., R. 28 E.; Sec. 19, 20, 29, 30, 31 and 32, T. 29 S., R. 28 E.; also Sec. 35, T. 27 S., R. 20 E.; T. 28 S., R. 20 E.; T. 28 S., R. 21 E.; T. 28 S., R. 22 E.; T. 29 S., R. 22 E.; Sec. 13 to 24, T. 29 S., R. 23 E.; Sec. 13 to 24, T. 29 S., R. 24 E.; Sec. 13 to 24, T. 29 S., R. 25 E.; Sec. 13 to 24, T. 29 S., R. 26 E.; Sec. 13 to 24, T. 29 S., R. 27 E.,

it will, under such rules and regulations as the Railroad Commission may prescribe, issue an order declaring that public convenience and necessity require the exercise by San Joaquin Light and Power Corporation of the rights and privileges granted in said franchise in so far as necessary to construct, operate and maintain a gas transmission line from a point on the Midway Gas Company's 12-inch pipe line in section 16, township 11 north, range 20 west, S. B. B. and M., along such route as set forth in Exhibit No. 1 attached to and filed as a part of this application, to the Bakersfield steam plant of applicant located in section 19, township 29 south, range 27 east, M. D. B. and M., under such terms and conditions as the Railroad Commission may at that time designate.

Dated at San Francisco, California, this fourth day of June, 1918.

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DECISION No. 5464.

IN THE MATTER OF THE APPLICATION OF LA RICA WATER COMPANY,  
A CORPORATION, FOR GENERAL RELIEF.

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Application No. 3486.

*Decided June 5, 1918.*

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*Chas. L. Chandler*, for Applicant.

*Louis J. Euler*, for Protestant E. J. Meade.

LOVELAND, *Commissioner*.

#### OPINION.

The La Rica Water Company, hereinafter referred to as Applicant, petitions to be permitted to discontinue its public utility service of

water for irrigation and domestic uses, or if required to continue, for the establishment of just and reasonable rates.

Public hearing was held in Los Angeles, February 16, 1918.

The status of this company as a public utility, its history and description of its system was set out in Decision No. 3084, *Alex. Cummings et al. vs. La Rica Water Company*, Case 829, Volume 9, Opinions and Orders, California Railroad Commission, page 152. In that proceeding, decided February 7, 1916, applicant herein was held to be a public utility and since that time has operated as such.

A number of the consumers including among them some of the stockholders of the company contested in this proceeding the application to discontinue serving as a public utility. The service now rendered by the company has been and is of public concern as the company is delivering water for compensation to the public or a portion thereof. It is not within the power of the company alone to change this use to a private one (*Franscioni vs. Solidad Land and Water Company*, 170 Cal. 221).

The rates charged the consumers during the period 1912 to 1915 were \$1.50 per hour's operation of the pump to contract holders and 80 cents per hour to stockholders. In the year 1916 all users were charged at the rate of 80 cents per hour's operation of the pump. The board of directors of the company decided that this rate did not produce an adequate income and passed a resolution establishing a rate of \$1.25 per hour for the year 1917. The authority of this commission was not obtained for this increase, which, consequently, is illegal. The company is now attempting to collect from all its consumers at this rate for use during 1917, but as such rate never became the legal rate, collections should be made at 80 cents per hour's operation of the pump.

It now remains to establish fair and reasonable rates for the service rendered. The records of the company show an original cost of this plant of \$2,814.00. Assistant Engineer H. F. Clark of the commission's hydraulic division submitted, in Application No. 2878, "In the matter of the application of La Rica Water Company for an order authorizing increase of rates," which proceeding, it was stipulated, is a part of the record in this proceeding, an estimate of \$3,406.00 to reproduce the plant.

The operating expenses, hours pump operated and gross revenue for 1916 and 1917 follow:

	1916	1917
Operating expenses .....	\$1,312 00	\$1,183 00
Operating revenue .....	708 00	1,046 00
Hours pump operated.....	885	851
Rate per hour charged.....	\$0 80	\$1 25

Protestants contend that the plant is not operated economically and that the cost of pumping is larger than that of a pumping plant in good condition and operated efficiently. Mr. C. W. Coughran testified that the cost to him of operating a similar plant under comparable conditions was 55 cents per hour's operation when driven electrically and slightly less when driven by a gasoline engine.

Using the maintenance and operation expense for 1917 and assuming that the pump plant was operated 150 hours during the year for domestic service, or a total of 1,000 hours for domestic and irrigation service, the total cost and the cost per hour of operation are as follows:

	Total	Cost per hour
Fuel and power.....	\$801 60	\$0 80
Labor pumping .....	119 07	15
Repairs .....	12 23	01
Secretary's salary .....	120 00	12
Taxes .....	71 32	07
Miscellaneous .....	178 45	18
Totals .....	\$1,332 67	\$1 33

These sums do not include any allowance for depreciation or interest on investment. It does, however, include under the heading Miscellaneous the amount expended in preparation for Railroad Commission hearings which are not recurrent and should be amortized over a period of years. The cost of fuel and power appears excessive and is larger than ordinarily occurs for motors of this size, but even if this charge is materially reduced the resultant rates will at least equal those asked for by the utility if allowance be made for depreciation and interest on investment.

Heretofore no charge has been made for water used for domestic purposes, although the company has been supplying some eight consumers with water for this purpose. I shall recommend that a rate be established not only for irrigation use, but also for domestic use.

The rates established herein and those in effect in the past have been in the form of a charge per hour's operation of the pump. It is obvious that a rate of this kind offers no inducement to keep the pumping plant in condition for efficient operation. The normal capacity of this plant approximates 175 to 200 miner's inches (50 miner's inches=1 cubic foot per second). I am of the opinion that in the establishment of rates a minimum rate of delivery of the pump should be fixed for the hourly rate established. I recommend that a minimum delivery at the rate of 160 miner's inches be fixed as the minimum for the rate established.

**ORDER.**

The La Rica Water Company having applied to the Railroad Commission for an order establishing just and reasonable rates for water served to its consumers and a public hearing having been held and the matter having been submitted and being now ready for decision,

It is hereby found as a fact by the Railroad Commission of the state of California that the rates and charges of the La Rica Water Company in so far as they differ from the rates and charges herein established are unremunerative, unjust and unreasonable, and that the rates herein established are remunerative, just and reasonable,

*It is hereby ordered* that the La Rica Water Company on or before twenty days from the date of this order establish and file the following rates for water:

*Irrigation use—*

\$1.25 per hour's operation of pump, delivering not less than 100 miner's inches (34 cubic feet per second).

*Domestic use, flat rate—*

\$1.25 per month per consumer.

*Measured rates, minimum charge—*

\$1.00 per month for 800 cubic feet or less, excess use 10 cents per 100 cubic feet.

Dated at San Francisco, California, this fifth day of June, 1918.

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DECISION No. 5467.

IN THE MATTER OF THE APPLICATION OF ECONOMIC GAS COMPANY  
FOR AN ORDER AUTHORIZING THE RENEWAL OF A PROMISSORY  
NOTE OF TWENTY-EIGHT THOUSAND FIVE HUNDRED DOLLARS.

Application No. 3714.

IN THE MATTER OF THE APPLICATION OF ECONOMIC GAS COMPANY  
FOR AN ORDER AUTHORIZING THE EXECUTION OF PROMISSORY  
NOTES AGGREGATING THE SUM OF THIRTY-TWO THOUSAND FIVE  
HUNDRED DOLLARS.

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Application No. 3758.

*Decided June 5, 1918.*

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*Chickering & Gregory, by Allen Chickering, for Applicant.*  
*A. A. Sanderson, for Welsbach Company.*

BY THE COMMISSION.

**OPINION.**

Economic Gas Company, in the above-entitled applications, asks authority to issue notes having an aggregate face value of \$61,000.00.

A hearing was held on these applications before Examiner Enecll at San Francisco.

The applications were consolidated for decision.

The testimony in Application No. 3714 shows that on June 17, 1914, applicant issued to Economic Gas Appliance Company its one-day 6 per cent note for \$37,000.00 in consideration for materials and supplies sold and delivered to it. Thereafter, Economic Gas Appliance Company endorsed and transferred the note to the Welsbach Company. The payment of the note is secured by bonds issued and pledged, pursuant to the authority granted by the Railroad Commission in Decision No. 2355, dated May 5, 1915 (Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 792). The company has paid \$8,500.00 of the principal of said note, leaving \$28,500.00 still due. Applicant reports that as payments have been made on the note a proper proportion of the bonds pledged have been returned to its treasury. Unless the note is renewed prior to June 18, 1918, it will be barred by the statute of limitations.

In Application No. 3758, applicant asks authority to issue four \$8,125.00 6 per cent notes dated May 16, 1918. One of these notes will be payable on or before August 15, 1918, one on or before November 15, 1918, one on or before February 15, 1919, and one on or before May 15, 1919.

The testimony shows that prior to July 1, 1915, applicant was purchasing from Southern California Gas Company, gas under a contract dated October 26, 1912, as amended by a contract dated June 20, 1915. Subsequent to the execution of this contract, a controversy arose between applicant and Southern California Gas Company as to its interpretation and meaning. Applicant contended that under the contract Southern California Gas Company was obligated to furnish to it pure natural gas as distinguished from a mixed gas consisting part of natural and part artificial gas. A difference of opinion also arose as to the price to be paid for the gas so delivered. In October, 1916, applicant filed in the Superior Court of the state of California in and for the county of Los Angeles against Southern California Gas Company an action to recover damages on account of the failure of Southern California Gas Company to deliver pure natural gas. The Southern California Gas Company filed an answer and counterclaim seeking, among other things, to recover the purchase price of the gas sold, this amount being reported at \$73,737.49 together with interest thereon. Economic Gas Company and Southern California Gas Company have since the filing of said action reached a compromise, under the terms of which Economic Gas Company proposes to issue to Southern California Gas Company four \$8,125.00 6 per cent notes. None of the promissory notes is made payable more than one year from its date of issue, but the controversy

between the two companies involves two notes, one for \$5,000.00 and one for \$10,000.00 given by officers of Economic Gas Company to Southern California Gas Company. Because of these two notes being involved in the controversy, the Southern California Gas Company takes the position that the issue of \$32,500.00 of notes in order to be valid should be authorized by the Railroad Commission.

#### ORDER.

Economic Gas Company having applied to the Railroad Commission for authority to issue notes in amounts as set forth in the foregoing opinion and a public hearing having been held,

*It is hereby ordered* that Economic Gas Company be and it is hereby granted authority to issue to Welsbach Company its 6 per cent one-day promissory note for the sum of \$28,500.00 for the purpose of paying or refunding the \$28,500.00 note now held by Welsbach Company, and to issue and pledge to secure the payment of said \$28,500.00 note, bonds in such an amount, so that the face value of the note for which said bonds shall be pledged as collateral, shall in no event be less than approximately 66 $\frac{2}{3}$  per cent of the face value of the collateral pledged. As payments are made on said note a proper proportion of the bonds pledged as collateral shall be returned to applicant's treasury and thereafter issued only upon further order of the Railroad Commission. Applicant may, if it so desires, renew the promissory note herein authorized to be issued from time to time for periods not exceeding in the aggregate with the term of the first renewal, the term of one year.

*It is hereby further ordered* that Economic Gas Company be and it is hereby granted authority to issue to Southern California Gas Company four \$8,125.00 6 per cent notes, dated May 16, 1918, one of said notes to be payable on or before August 15, 1918, one on or before November 15, 1918, one on or before February 15, 1919, and one on or before May 15, 1919.

The authority herein granted is granted upon the following conditions, and not otherwise:

(1) Economic Gas Company shall file with the Railroad Commission a copy of the compromise agreement between itself and the Southern California Gas Company, together with a statement showing that all claims of each against the other have been released and discharged through the issue and payment of the four \$8,125.00 notes herein authorized to be issued.

(2) Applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the notes herein authorized to be issued, and on or before the twenty-fifth day of each month applicant shall make verified reports to the Railroad Commission stating the disposition of the notes herein authorized to be

issued and the proceeds thereof, and in this and all other respects applicant shall comply fully with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted shall not become effective until Economic Gas Company has paid the fee prescribed by the Public Utilities Act.

(4) The authority herein granted shall apply only to such notes as shall have been issued on or before June 1, 1918.

Dated at San Francisco, California, this fifth day of June, 1918.

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DECISION No. 5471.

IN THE MATTER OF THE APPLICATION OF FARMERS TRANSPORTATION COMPANY TO INCREASE RATES FOR THE STORAGE AND HANDLING OF COMMODITIES AT ITS WAREHOUSES AT GRIMES, CALIFORNIA.

Application No. 3793.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO TRANSPORTATION COMPANY TO INCREASE RATES FOR THE STORAGE AND HANDLING OF GRAIN AND CORN AT ITS WAREHOUSE AT MONROEVILLE, CALIFORNIA.

Application No. 3794.

IN THE MATTER OF THE APPLICATION OF GRIMES WAREHOUSE COMPANY TO INCREASE RATES FOR THE STORAGE AND HANDLING OF GRAIN, CORN, BEANS AND RICE AT ITS WAREHOUSE AT GRIMES, CALIFORNIA.

Application No. 3795.

IN THE MATTER OF THE APPLICATION OF GRAND ISLAND WAREHOUSE TO INCREASE RATES FOR THE STORAGE AND HANDLING OF GRAIN, CORN, BEANS AND RICE AT ITS WAREHOUSE AT GRAND ISLAND, CALIFORNIA.

Application No. 3796.

IN THE MATTER OF THE APPLICATION OF FARMERS WAREHOUSE COMPANY TO INCREASE RATES FOR THE STORAGE OF GRAIN, CORN AND BEANS AT ITS WAREHOUSE AT GRIMES, CALIFORNIA.

Application No. 3797.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO RIVER WAREHOUSE COMPANY TO INCREASE RATES FOR THE STORAGE OF GRAIN, CORN, BEANS AND RICE IN ITS WAREHOUSES LOCATED AT BUTTE CITY AND SIDDS, GLENN COUNTY, PRINCETON AND COLUSA, COLUSA COUNTY, AND TISDALE LANDING, SUTTER COUNTY, CALIFORNIA.

Application No. 3798.

IN THE MATTER OF THE APPLICATION OF WILLOWS WAREHOUSE ASSOCIATION TO INCREASE RATES FOR THE STORAGE AND HANDLING OF GRAIN, RICE, WOOL AND GENERAL MERCHANDISE IN ITS WAREHOUSES AT WILLOWS, LOGANDALE AND NORMAN, CALIFORNIA.

Application No. 3799.

IN THE MATTER OF THE APPLICATION OF FARMERS STORAGE COMPANY TO INCREASE RATES FOR THE STORAGE AND HANDLING OF GRAIN, CORN AND RICE AT ITS WAREHOUSE AT COLUSA, CALIFORNIA.

Application No. 3800.

IN THE MATTER OF THE APPLICATION OF HOCHHEIMER & COMPANY TO INCREASE RATES FOR THE STORAGE AND HANDLING OF GRAIN AND RICE AT ITS WAREHOUSE AT GERMANTOWN, CALIFORNIA.

Application No. 3801.

IN THE MATTER OF THE APPLICATION OF HOWELLS POINT WAREHOUSE TO INCREASE RATES FOR THE STORAGE AND HANDLING OF COMMODITIES IN ITS WAREHOUSE AT HOWELLS POINT, CALIFORNIA.

Application No. 3812.

IN THE MATTER OF THE APPLICATION OF MAXWELL GRAIN STORAGE WAREHOUSE TO INCREASE RATES FOR THE STORAGE AND HANDLING OF COMMODITIES IN ITS WAREHOUSE AT MAXWELL, CALIFORNIA.

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Application No. 3813.

*Decided June 8, 1918.*

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WAREHOUSE RATES. Warehouse rates increased because of increased operating costs due to war conditions.

*Moody & Bell*, for applicants in Applications Nos. 3799 and 3801.

*Saunborn & Rochl*, for all other applicants.

*Dan Shallooc* and *F. W. Whyler*, for patrons.

LOVELAND, *Commissioner*.

#### OPINION.

This proceeding embraces eleven applications for authority under section 63 of the Public Utilities Act to increase rates for the storage of grain, beans and rice and to make certain increases in rates for yarding, weighing, and delivery to team or auto trucks at warehouses of the Farmers Transportation Company, Sacramento Transportation Company, Grimes Warehouse Company, Grand Island Warehouse Company, Farmers Warehouse Company, Sacramento River Warehouse Company, Willows Warehouse Association, Farmers Storage Company,



Hochheimer & Company, Howells Point Warehouse and Maxwell Grain Storage Warehouse, located at Grimes, Monroeville, Colusa, Grand Island, Butte City, Princeton, Sids, Tisdale, Willows, Logandale, Norman, Germantown, Howells Point and Maxwell.

The applications are similar in form and while the present rates are not exactly uniform throughout this part of the Sacramento Valley the proposed increases average, for grain and rice, 25 per cent, and for beans 75 per cent. Beans are not stored in any large quantity at applicants' warehouses except at Tisdale Landing, and the reasons for the increases in storage on this commodity will be referred to later.

The present and proposed rates, for season of twelve months, at the principal warehouses are as follows:

Commodity	Present, per ton	Proposed, per ton
Grain -----	\$0.65 to \$1.00	\$0.90 to \$1.00
Beans -----	.85 to 1.00	1.50
Rice -----	.65 to 1.00	1.25
Weighing charges -----	.10 to .25	.25 to .30
Yardage -----	.10 to .40	.50
Delivery to vehicle -----	.15 to .25	.30

The storing of grain commences in the early part of June and the period covered by the rates shown above commences June 1st of the year stored and ends the same date of the following year; rice and beans, although stored later than June 1st, are governed by the same rules.

Notwithstanding the importance of this proceeding, the great number of communities involved, the fact that notices of the hearing were published in local papers and direct advice mailed storers, no evidence whatever was presented in opposition to the proposed rates. Several storers and interested farmers complained of inadequate service during the season of 1917, caused principally by insufficient labor or the inability of warehousemen to properly control such labor as remained on the job. These witnesses had no objection to the new rates, under existing war conditions, but urged better service in the prompt handling of their tonnage for the future. Since the patrons presented no testimony in opposition it must be assumed the proposed rates are not considered unreasonable.

Exhibits were introduced by applicants covering each warehouse, giving a detailed description of property employed, its value and location, a statement of gross earnings, operating expenses, taxes, loss and damage claims, net income and the estimated income under the proposed rates from the 1918 crop. From these exhibits the following statement was compiled:

Appl.	Location	Value of plant	Gross storage revenue	Net operating revenue	Deficit after allowing return on investment and depreciation
3793	Grimes -----	\$19,250 00	\$3,275 81	\$793 21	\$1,281 79
3794	Monroeville -----	8,346 60	3,076 76	698 91	536 18
3795	Grimes -----	10,023 00	3,253 60	529 12	886 43
3796	Grand Island -----	14,440 00	3,777 84	1,638 84	326 16
3797	Grimes -----	11,122 00	2,692 65	747 24	680 36
3798	Butte City Nos. 1, 2, 3.-----	110,906 02	28,716 88	8,918 02	6,218 37
	Princeton -----				
	Sidds -----				
	Colusa -----				
	Tisdale -----	7,237 53	1,504 68	6 55	1,031 32
3799	Willows Nos. 1, 2, 3.-----	63,262 80	8,795 21	1,607 42	46,678 42
	Logandale -----				
	Norman -----				
	Lyman -----				
3800	Colusa (Farmers) -----	17,688 87	12,918 80	2,360 99	5 81
	(Grangers and Colusa*)-----				
3801	Germantown* -----		8,301 89	1,923 34	4627 34
3812	Grand Island -----	22,505 11	6,987 42	2,759 06	253 44
3813	Maxwell Nos. 1, 2, 3.-----	19,861 60	10,046 20	1,443 15	1,322 09

\*Rented property.

†Deficit season ending June 1, 1917.

‡Profit after allowing for depreciation on equipment only and pro rata of overhead expense.

With but one exception, after allowances are made for depreciation to equipment and buildings and a fair return on invested capital, the properties were handled at a loss during the 1917 season. It is also shown they will not earn a fair return on invested capital during the year 1918 based on the estimated tonnage and the increased rates. For this season the crops will be about thirty per cent less than during the year 1917 and it is believed much tonnage will pass directly from the harvest fields into cars for transportation to the Atlantic seaboard without making use of warehouse facilities.

Schedules in effect today, at the majority of warehouses, are those established in 1912, when these utilities were first placed under the jurisdiction of this commission by the provisions of the Public Utilities Act, and it might well be that rates just and reasonable five or six years ago are too low under war conditions.

The evidence further shows that the cost of labor and supplies increased in the year 1917 over 1916 and that the estimated operating expenses for the year 1918 will be largely in excess of those of 1917. Laborers are needed during the harvest period and the competition created at the height of the season between warehousemen and farmers results in unusually high wages. Demands now being made indicate that wages for 1918 will be from 50 to 100 per cent greater than in 1917. One witness testified that during the rush period of 1917 he traveled

some six hundred miles by automobile in an effort to pick up sufficient labor to keep his warehouse in operation, but was seldom successful and that the labor obtained was most inefficient, many of the men remaining at work but a few days at a time. At certain points it is now necessary, in addition to providing sleeping accommodations, to furnish the men with meals, an expense not assumed in former years.

The reasons given for charging \$1.50 per ton per season for the storage of beans was outlined by applicants' principal witness, who testified in effect that beans require special attention, must be carefully inspected, are susceptible to damage because of moisture and cause injury to other consignments when not properly dried at the time of storage; also that being of a much greater value than either grain or rice they should carry a higher rate. To properly handle the current crop of beans the facilities at Tisdale must be enlarged and it was shown that at this particular warehouse there will be no profit under the proposed rates, in 1918, because of the increased cost of labor and supplies, not taking into consideration the investment of adding to the present facilities.

The reports and testimony of applicants clearly indicate that under the rates now in effect they are not earning sufficient to enable them to render good and satisfactory service and secure any return upon the property devoted to the business.

I find as a fact that because of war conditions the present rates are unduly low and that the applications should be granted.

I submit the following form of order:

#### ORDER.

Farmers Transportation Company, Sacramento Transportation Company, Grimes Warehouse Company, Grand Island Warehouse Company, Farmers Warehouse Company, Sacramento River Warehouse Company, Willows Warehouse Association, Farmers Storage Company, Hochheimer & Company, Howells Point Warehouse and Maxwell Grain Storage Warehouse, having applied to this commission for an order authorizing increases in rates for the storage, weighing, yarding and delivery of grain, rice and beans at their warehouses, and a hearing having been held upon these applications and the commission being fully advised in the premises, it is hereby found as a fact that the rates now in effect are unduly low and are unjust and unreasonable, and the commission further finds that the rates proposed in the applications are just and reasonable.

*It is hereby ordered* that the Farmers Transportation Company, Sacramento Transportation Company, Grimes Warehouse Company, Grand Island Warehouse Company, Farmers Warehouse Company, Sacramento River Warehouse Company, Farmers Storage Company and Howell's

Point Warehouse Company, be authorized to charge the following rates, as their interests may appear:

**Storage Rates.**

Commodity	Period of storage	Rate, ton—2,000 pounds
Grain and corn.....	June 1 to May 31, inclusive	\$1.00
Rice—in ordinary grain bags.....	June 1 to May 31, inclusive	1.25
Rice—in double sized grain bags.....	June 1 to May 31, inclusive	2.50
Beans .....	June 1 to May 31, inclusive	1.50
Reweighing .....		.30
Yardage .....		.50
Delivery to team or auto truck.....		.30

*It is hereby further ordered* that Willows Warehouse Association and Hochheimer & Company be authorized to charge the following rates:

Commodity	Period of storage	Rate, ton—2,000 pounds
Grain .....	June 1 to Oct. 1, inclusive	\$0.75
Grain .....	June 1 to May 31, inclusive	1.00
Rice .....	June 1 to Oct. 1, inclusive	1.00
Rice .....	June 1 to May 31, inclusive	1.25
Weighing out .....		.25

*It is hereby further ordered* that the Maxwell Grain Storage Warehouse be authorized to charge the following rates:

Grain—June 1 to May 31, inclusive, 90 cents per ton of 2,000 pounds.

*It is hereby further ordered* that the collection of these rates shall be conditioned upon the rendering of first-class service, such as receiving, weighing in, piling, carrying in storage, loading out and such other service as it is customary for warehousemen similarly situated to give.

*It is hereby further ordered* that schedules embracing the authorized rates be filed with this commission within twenty (20) days from the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eighth day of June, 1918.

## DECISION No. 5473.

IN THE MATTER OF THE APPLICATION OF THE SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AN ORDER READJUSTING PASSENGER FARES BETWEEN SAN FRANCISCO AND TRANSBAY POINTS.

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Application No. 2985.

*Decided June 8, 1918.*

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COMMUTATION RATES.—Commutation and suburban passenger rates increased in order to preserve the parity of rates with competing utility subject to federal railroad administration which authorized increase of passenger rates.

*C. W. Durbrow*, for Southern Pacific Company.

*Bishop & Bahler*, by *H. M. Wade* and *L. R. Bishop*, for the city of Oakland and Oakland Chamber of Commerce.

*Paul C. Morf* and *H. L. Hagan*, for the city of Oakland.

*Frank D. Stringham* and *B. D. Marx Greene*, for city of Berkeley and Berkeley Chamber of Commerce.

*A. F. St. Sure*, for city of Alameda.

*H. F. Strother*, for master mates and pilots in the employ of the Southern Pacific and San Francisco-Oakland Terminal Railways.

*Vincent Carroll*, for marine engineers.

*C. W. White*, for city of Hayward.

*T. V. O'Brien*, for the citizens of Hayward.

*Sapiro, Noylan & Ehrlich*, for East Oakland Protective League and Merchants Exchange of Oakland.

*Leon Clark*, for city of Albany.

*Morrison, Dunne & Brobeck and Creed, Jones & Dull*, for San Francisco-Oakland Terminal Railways.

BY THE COMMISSION.

**OPINION.**

In this application the San Francisco-Oakland Terminal Railways, known as the Key System, asks for authority to increase its passenger fares between San Francisco and points reached by its lines in Alameda and Contra Costa counties. Shortly after this case came before the commission, the Southern Pacific Company filed its application No. 3086, in which authority was asked for an increase in Southern Pacific transbay passenger fares with the exception of the route commonly known as the Creek Route. Later, Application No. 3087 was filed by the Southern Pacific Company, asking for authority to increase the fares on the so-called Creek Route between San Francisco and Broadway Wharf, Oakland.

Thereafter the San Francisco-Oakland Terminal Railways filed an additional application No. 3219, in which authority was asked to read-

just street car fares on the company's traction division serving the communities of Alameda and Contra Costa counties.

These four proceedings were consolidated and a number of hearings were held beginning on September 5, 1917, and ending on May 29, 1918. While these applications were before the commission, the federal government, through the director general of railroads, took over the operating control of the Southern Pacific lines, including the transbay suburban service, and on the last day of the hearing that company asked that its Applications Nos. 3086 and 3087 either be dismissed or be indefinitely held in suspense. The commission has decided that the proper disposition of that motion is by dismissal of these applications and such order will be made concurrently herewith. There is now left for decision the two applications of the San Francisco-Oakland Terminal Railways. It was stipulated, however, by all the parties in these proceedings that all exhibits and testimony introduced in the consolidated cases shall be applicable to both companies.

On May 27, 1918, the director general of railroads, Hon. Wm. G. McAdoo, filed with this commission his order No. 28, initiating new freight and passenger rates on all federally controlled railways, the passenger rates to become effective on June 10, 1918, and the freight rates on June 25, 1918.

The passenger rate schedule as initiated by the director general also affects so-called suburban and commutation rates, and in so far as such rates are concerned reads as follows:

“Section 9.—(Commutation fares shall be advanced ten (10) per cent. Commutation fares shall be construed to include all forms of transportation designed for suburban travel, and for the use of those who have daily, or frequent occasion to travel between their homes and places of employment or educational institutions.”

The Southern Pacific Company has filed with this commission its schedule of suburban rates to conform with the director general's order. These rates will take effect on June 10, in accordance with the tariffs filed with the commission on June 5, 1918. The Key System is not under federal control and is therefore not included in the director general's order.

The transbay rates have been on a parity continuously since the inauguration of service on the two systems and the entire suburban transportation structure now rests on that basis. It seems to us desirable that under the existing circumstances, somewhat abnormal in character, parity of rates should be maintained until time permits a proper and sufficient study of the large volume of testimony and exhibits introduced herein.

The numerous issues involved were presented by the applicants and protestants in these proceedings in a very thorough and complete man-

ner. The commission has now before it all of the data necessary in order to come to definite conclusions, but it has not yet been possible to come to a final decision as to the amount of increase which should be finally allowed. Pending such decision, it is our opinion that the Key System should be authorized to put into effect the same rates that will be established for the Southern Pacific as it seems to us proper that similar rates should become effective for both lines at the same time.

A final order as to the Key System rates and on the question of the street car fares on the traction division as involved in Application No. 2915, will be the subject of a subsequent opinion and order.

#### ORDER.

San Francisco-Oakland Terminal Railways having made application to this commission for authority to increase certain passenger fares between San Francisco and points located in the counties of Alameda and Contra Costa; public hearings having been held, and it appearing to the commission that preliminary order should be made,

*It is hereby ordered* that San Francisco-Oakland Terminal Railways be and hereby is granted authority to raise its commutation and suburban rates to conform with the rates carried in the tariffs filed with this commission on June 5, 1918, by the Southern Pacific Company, covering transbay service, provided, however, that nothing herein is to be construed as authorizing an increase of fares on the traction division of the San Francisco-Oakland Terminal Railways.

Dated at San Francisco, California, this eighth day of June, 1918.

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#### DECISION No. 5474.

IN THE MATTER OF THE APPLICATION OF MRS. NELLIE WILLIAMS FOR PERMISSION TO SELL THE WATER SYSTEM SUPPLYING THE TOWN OF CALLAHAN, SISKIYOU COUNTY, CALIFORNIA, TO THE PROPERTY OWNERS OF CALLAHAN, WHO HAVE ASSOCIATED THEMSELVES IN A MUTUAL WATER SYSTEM.

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Application No. 3824.

*Decided June 11, 1918.*

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BY THE COMMISSION.

#### ORDER.

Mrs. Nellie Williams having asked authority to transfer to the Callahan Mutual Water System, a certain public utility system in the town of Callahan, Siskiyou County, California, the property to be transferred being described in the form of deed attached to the application herein marked Exhibit "A" as follows:

"All their right, title and interest in and to the present water works supplying the town of Callahan with water, together with all reservoir sites, pipe lines used in connection therewith, together with a right of way six feet in width, over all lands belonging to the said parties of the first part, or either of them, together with the right to enter upon the said property of the said parties of the first part at any time for the purpose of repairing the said pipe line or in the conduct of the water system.

"Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof. And all tools and fixtures belonging to or in any wise appertaining to the above mentioned water system."

And it appearing to the commission that this is not a case in which a public hearing is necessary, and that the application should be granted,

*It is hereby ordered* that the application herein be and the same is hereby granted; provided, that the authority herein granted to transfer said property shall apply only to such property as is transferred on or before July 31, 1918; and provided, further, that a certified copy of the deed of conveyance executed in accordance with this order shall be filed with this commission within fifteen (15) days after the execution thereof; and that the consideration given for the property herein authorized to be transferred shall not be taken before this commission, or any other public body, as a value for rate-fixing purposes.

Dated at San Francisco, California, this eleventh day of June, 1918.

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DECISION No. 5477.

IN THE MATTER OF THE APPLICATION OF FALL RIVER MILLS WATER COMPANY FOR AN ORDER AUTHORIZING THE INSTALLATION OF METERS AND FIXING OF METER RATES.

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Application No. 3534.

*Decided June 11, 1918.*

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W. A. Wilson, for Applicant.

BY THE COMMISSION.

**OPINION.**

In this application the Fall River Mills Water Company asks for the establishment of meter rates, a public hearing having been held at Fall River Mills, April 25, 1918, before Examiner Encell.



Evidence was presented at this hearing in behalf of applicant and consumers. In Decision No. 4493, the commission established the rates under which the utility is now operating. These are all flat rates and no meter rate has ever been established. Owing to the violation of the rules and regulations now existing with respect to water waste and the consequent deficiency in revenue, the applicant desires to install meters. The evidence shows that the power for pumping through an 80-foot lift costs  $8\frac{1}{2}$  cents per thousand gallons and the average amount of water pumped throughout the year is approximately 6,000 gallons per day. This figure is also arrived at by estimating from the power bill. Service is given to twenty-four consumers, who on this basis have an average use of 180,000 gallons per month. The operating expenses in 1917 were \$580.33 according to the utility's annual report and their revenue was \$545.74. This deficiency it is expected will be eliminated with the establishment of equitable meter rates, the reduction in water waste and consequent decrease in the power bill and annual charges. The meter rates herein established are based on such reductions and we believe they will assist in providing sufficient revenue to meet the annual charges.

#### ORDER.

Fall River Mills Water Company having applied to the Railroad Commission for an order authorizing an increase in the rates to be charged their consumers for water, and a public hearing having been held, and the commission being fully advised in the premises, it is hereby found as a fact by the Railroad Commission of the state of California that the rate set out in this order is a just and reasonable rate to be charged by applicant to its consumers for water. Basing its order on the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

*It is hereby ordered* that applicant is authorized to file with this commission the following schedule of rates, said rates to become effective July 1, 1918:

#### *Meter Rate.*

Minimum, \$1.00 monthly for 300 cubic feet or less.  
From 300 to 2,000 cubic feet, 25 cents per 100 cubic feet.  
Over 2,000 cubic feet, 15 cents per 100 cubic feet.

Dated at San Francisco, California, this eleventh day of June, 1918.

## DECISION No. 5482.

IN THE MATTER OF THE APPLICATION OF MIDDLE YUBA HYDRO-ELECTRIC POWER COMPANY FOR AN ORDER TO ISSUE NOTES TO REFUND EXISTING NOTES OF SAID CORPORATION.

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Application No. 3701.

*Decided June 12, 1918.*

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*Lloyd P. Larue*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Middle Yuba Hydroelectric Power Company applies for an order authorizing it to execute two notes aggregating \$101,239.20, payable to George B. Agnew, with interest at 6 per cent per annum from January 1, 1918, for the purpose of refunding applicant's notes held by Mr. Agnew, which with interest aggregate the same total.

A public hearing upon the application was held by Examiner Westover at Colfax, May 24.

It appears from the testimony that applicant was organized in 1909 with a capital stock of \$400,000.00, divided into 400,000 shares of the par value of \$1.00 each, for the purpose of developing hydroelectric power and distributing it in Alleghany and Forest mining districts in Sierra County.

The original plan of the company was to build dams and reservoirs on Middle Fork of the Yuba River and install power plants designed to develop 12,000 horsepower at an estimated cost of \$1,200,000.00. In the preliminary work of making the necessary surveys, preparing plans and building the necessary roads for construction purposes, applicant expended the total sum of \$28,048.44. When the preliminary work had been done it was found that the financial interests through whom applicant expected to finance the enterprise objected to the form of permit procured by applicant for its development work on government land, which was expressed to be subject to the regulation and control of the Secretary of the Interior. This obstacle to the financing of the enterprise having been encountered, applicant then concluded to operate only its transmission and distributing system, which had been built meanwhile, and purchase energy for that purpose from the Pacific Gas and Electric Company, and since that time its activities have been confined to such operation.

Applicant reports the total expenditure upon the projects of \$87,489.41, of which \$57,158.02 is represented by its transmission and distributing system, \$2,382.95 by Forest Reserve permits and \$28,048.44 by the preliminary expenses above referred to. This expenditure was financed by Mr. Agnew advancing \$74,500.00 from time to time, by

the sale of 14,000 shares of stock for the total sum of \$7,000.00, and by earnings from the distributing system.

It appears from applicant's annual reports that its earnings prior to 1917 were never sufficient to meet the cost of maintenance and operation with interest charges. In 1917, however, its net earnings were sufficient to meet such charges and produce a surplus in earnings of \$1,148.84.

On June 13, 1913, applicant issued to Mr. Agnew its note for \$74,500.00 to cover moneys advanced by him and its note for \$12,307.13 representing interest then accrued on such advances. Subsequently, applicant paid \$11,500.00 on account. We think it will prove advantageous to the payee if all of the principal be represented by one note and the unpaid portion of the interest accrued be represented by a second note, as it appears that he wishes to have the indebtedness represented by two notes.

#### ORDER.

Middle Yuba Hydroelectric Power Company having applied for authority to issue the notes hereafter described, a public hearing having been held upon said application and it appearing to the commission that the proceeds of said notes are reasonably required for the purposes specified in the order,

*It is hereby ordered* that Middle Yuba Hydroelectric Power Company be and it is hereby authorized to issue two unsecured notes in favor of George B. Agnew with interest at the rate of 6 per cent per annum from January 1, 1918, payable January 1, 1921, one of said notes being for the sum of \$74,500.00 and the other for the sum of \$26,739.20; and use the proceeds thereof for the purpose of refunding the indebtedness represented by notes issued by applicant in favor of said George B. Agnew, dated June 13, 1913; one for the sum of \$74,500.00 with interest accrued thereon and the other for the sum of \$12,307.13 with interest accrued thereon.

This authority is granted upon the following conditions:

1. Said notes shall be issued at a price which will net par and accrued interest to applicant without discount or payment of commission.

2. This authority shall extend only to such notes as shall be issued within sixty days from date hereof.

3. Within ten days after the issuance of said notes applicant shall make verified report in writing to the commission stating the fact and date of issue of said notes and for what purposes the proceeds were used, all in accordance with the terms of General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. Nothing herein contained shall be construed as a finding by this commission of the value of applicant's property for any purpose.

5. This order shall not become effective until applicant has paid the fee provided by the Public Utilities Act.

Dated at San Francisco, California, this twelfth day of June, 1918.

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DECISION No. 5483.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS IN THE AMOUNT OF FIFTY THOUSAND DOLLARS.

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Application No. 3837.

*Decided June 12, 1918.*

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*Paul Overton*, for Applicant.

EDGERTON, *Commissioner*.

**OPINION.**

Los Angeles Gas and Electric Corporation, in this application, asks authority to issue \$50,000.00 of its first and refunding mortgage 5 per cent thirty-year gold bonds payable September 1, 1939, for the purpose of reimbursing its treasury for capital expenditures from May 1, 1914, to November 30, 1915.

In Exhibit "C," attached to the petition herein, applicant reports that it has expended for capital purposes from May 1, 1914, to November 30, 1915, the sum of \$927,221.05. From the \$927,221.05 the company deducts \$15,286.06, which has been used as a basis for the issue of a part of the \$900,000.00 of bonds authorized by the commission in Decision No. 569, dated April 10, 1913, leaving \$911,934.99 against which no bonds have been issued. To finance the capital expenditures of \$911,934.99, the company drew upon its depreciation reserve to the extent of \$845,268.32 and upon its surplus to the extent of \$66,666.67. Because of the amount expended from surplus for capital purposes, the company asks authority to issue \$50,000.00 of its bonds. The testimony in this proceeding, and reports on file with the Railroad Commission, show that the company's earnings and capital expenditures subsequent to May 1, 1914, have been such as to enable it to issue \$50,000.00 of bonds under the terms and conditions of its deed of trust.

I herewith submit the following form of order:

**ORDER.**

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for authority to issue \$50,000.00 of its first and refunding mortgage 5 per cent thirty-year gold bonds payable September 1, 1939, a hearing having been held and the commission being of

the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Los Angeles Gas and Electric Corporation be and it is hereby granted authority to issue at not less than 94½ per cent of their face value, plus accrued interest, \$50,000.00 of its first and refunding mortgage 5 per cent thirty-year gold bonds payable September 1, 1939, for the purpose of reimbursing in part its treasury for capital expenditures subsequent to May 1, 1914, upon the following conditions:

(1) Los Angeles Gas and Electric Corporation shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(2) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

(3) The authority herein granted shall apply only to such bonds as shall have been issued on or before August 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twelfth day of June, 1918.

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DECISION No. 5485.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR A REVISION OF ITS GAS RATES IN AND ABOUT THE CITY OF STOCKTON.

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Application No. 3605.

*Decided June 18, 1918.*

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GAS RATES—SURCHARGE.—Surcharge authorized to be added to gas rates in the city of Stockton because of increase in the cost of oil, materials and labor due to war emergency.

*Nutter & Hancock*, by *W. B. Nutter* and *Chickering & Gregory*, by *Allen Chickering*, for Applicant.

*Daniel V. Marceau*, city attorney, for city of Stockton, Protestant.

GORDON, *Commissioner*.

### OPINION.

This is an application by the Western States Gas and Electric Company for a revision of its schedule of gas rates in the city of Stockton, and vicinity, occasioned by increases in the cost of oil, materials and labor, which have been reflected in its operating expenses.

Applicant serves a mixture of artificial and natural gas to its consumers in the city of Stockton and vicinity. Applicant owns natural gas wells, a gas manufacturing plant, distribution system and other properties incidental to service of gas in the territory mentioned.

A hearing was held at Stockton on May 1, 1918, evidence introduced and the matter submitted for decision.

The rates now charged by applicant for gas service in the city of Stockton are set forth in Table I herewith:

TABLE I.

*Western States Gas and Electric Company—Stockton Division—Lighting, Heating and Cooking Rate, Stockton and Suburbs.*

**Rate:**

First	25,000 cubic feet used per month	-----	\$1.00 per thousand cubic feet
Next	25,000 cubic feet used per month	-----	.90 per thousand cubic feet
Next	25,000 cubic feet used per month	-----	.80 per thousand cubic feet
Next	25,000 cubic feet used per month	-----	.70 per thousand cubic feet
Next	25,000 cubic feet used per month	-----	.60 per thousand cubic feet
Over	125,000 cubic feet used per month	-----	.55 per thousand cubic feet

**Discount:**

Discount of 5 cents per 1,000 cubic feet if bill is paid within ten days of date of bill.

**Minimum:**

Minimum monthly charge, 50 cents per meter.

The extent of applicant's gas business and the growth of same during the last three years is reflected in the number of consumers, sales of gas and gross revenue, as follows:

TABLE II.

*Western States Gas and Electric Company—Stockton Division—Gas Department.*

	Average number of consumers	Total sales of gas, M cubic feet	Gross operative revenue
1915 -----	7,237	218,049	\$207,339 48
1916 -----	7,798	236,762	224,258 20
1917 -----	8,522	287,780	262,610 30
1918* -----	9,453	304,901	281,381 00

\*Estimated normal increase—revenue from existing rates.

The price paid by applicant for oil used in gas manufacture has increased from 73.5 cents in 1915 to \$1.605 at the present time, and in addition practically all other operating costs of applicant have been materially affected by the rising prices of materials, and by higher wages paid its employees. To some extent, however, the increase in

expenses has been absorbed by the growth in the volume of the business handled, so that under these conditions the necessary reimbursement to applicant does not cover the entire increase in expense.

Table III herewith shows statistical data and operating expenses for the years 1915, 1916 and 1917 and an estimate for the year 1918, based on a normal increase in applicant's business. From this table it will be noted that the cost of oil per thousand cubic feet of gas sold has increased from 7.60 cents per thousand to 17.536 cents per thousand, while the total operating expenses have increased from 42.179 cents per thousand in 1915 to an estimated total operating expense of 58.553 cents per thousand in 1918. In spite of the increase in the volume of business and investment in properties, the net income of applicant has been reduced from \$115,368.75 for the year 1915 to \$105,852.00, estimated for 1918.

The company introduced in evidence a valuation of its properties used in the service of gas, which valuation, however, is excessive in many instances, and is subject to revision of both the unit costs used therein and the overhead percentages applied to the same. It would be desirable to make a complete valuation of applicant's property herein if this were an ordinary rate proceeding, but the evidence presented on both sides clearly indicates that the existing rates will not yield applicant a reasonable return upon a minimum figure that might be used as a rate base.

TABLE III.

*Western States Gas and Electric Company, Stockton—Gas Statistics and Expense.*

	1915	1916	1917	1918 (estimated)
Average number of consumers.....	7,237	7,798	8,522	9,453
Sales of gas—M cubic feet.....	218,019	236,761	287,779	304,901
Natural gas produced—M cubic feet.....	139,987	165,055	179,257	188,108
Artificial—manufactured M cu. ft.....	107,362	116,116	148,889	163,565
Barrels of oil used in gas manufacture .....	22,547	23,819	30,511	33,313
Cost of oil per barrel.....	\$0.735	\$0.914	\$1.208	\$1.605
Gross operative revenue.....	\$207,339 48	\$221,258 20	\$262,610 30	\$284,381 00
Operating expenses—				
Production—oil .....	\$16,573 33	\$21,762 85	\$36,856 59	\$53,467 00
Other .....	19,065 60	21,293 89	28,052 02	37,145 00
Totals .....	\$35,638 93	\$43,056 74	\$64,908 61	\$90,612 00
Distribution .....	11,142 17	14,207 21	14,626 67	18,293 00
Commercial .....	9,742 25	8,130 63	9,176 38	10,140 00
General taxes, insurance.....	35,147 38	38,329 89	45,875 13	59,184 00
Total expenses .....	\$91,170 73	\$103,724 47	\$134,586 79	\$178,529 00
Net income for depreciation and return .....	\$115,368 75	\$120,533 73	\$128,023 51	\$105,852 00

It was stipulated by applicant and by protestant, the city of Stockton, that the commission fix a temporary rate increasing the rates of applicant by not more than 10 cents per thousand cubic feet of gas until such time as a proper valuation of applicant's properties is made and a complete rate investigation be carried out.

From the evidence submitted, I am satisfied that an increase of 10 cents per thousand cubic feet in the rates now charged by applicant will compensate in part for the increased cost of operation, and also that the added revenue to be thus derived will not yield applicant in excess of a reasonable return. I therefore recommend that applicant be authorized to add a surcharge of 10 cents per thousand cubic feet to existing rates for gas sold in and about the city of Stockton.

I submit the following form of order:

**ORDER.**

Western States Gas and Electric Company having applied to the Railroad Commission for a revision of its schedule of gas rates in and about the city of Stockton, a hearing having been held, and the matter submitted, and being now ready for decision, I find as a fact that the rates now charged by applicant for gas service in and about the city of Stockton are unjust and unreasonable rates in so far as they differ from the rates hereinafter established.

Basing its order upon the foregoing findings of fact and on the findings of fact contained in the opinion that precedes this order,

*It is hereby ordered* that the Western States Gas and Electric Company be and is hereby authorized to charge and collect for gas sold in the city of Stockton, and vicinity, the rates now on file with the commission, and in addition thereto, a surcharge of 10 cents per thousand cubic feet on all gas sold for all regular meter readings taken on and after the twenty-eighth day of June, 1918, provided Western States Gas and Electric Company shall, within ten days from the date of this order, file with the Railroad Commission an amended schedule of rates for the city of Stockton and vicinity in conformity with the order herein, and further provided that the Western States Gas and Electric Company shall indicate on the bills rendered its consumers for gas service in the city of Stockton and vicinity, the amount due it under the surcharge.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eighteenth day of June, 1918.



## DECISION No. 5487.

IN THE MATTER OF THE APPLICATION OF VENTURA WHARF AND  
WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE ISSU-  
ANCE OF ITS CAPITAL STOCK.

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Application No. 3779.

*Decided June 19, 1918.*

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BY THE COMMISSION.

**OPINION.**

The Ventura Wharf and Warehouse Company applies for an order authorizing the issue of \$2,700.00 par value of its capital stock, \$2,500.00 par value thereof being in lieu of stock heretofore issued without authority, and \$200.00 par value thereof to be sold and the proceeds used for capital purposes.

A public hearing on the application was held by Examiner Westover on June 17, 1918.

By Decision No. 3398 of June 5, 1916 (Vol. 10, Opinions and Orders of the Railroad Commission of California, p. 273), applicant was authorized to issue its entire \$60,000.00 of capital stock, divided into 600 shares of the par value of \$100.00 each, \$40,000.00 par value being for the purchase of a wharf and warehouse property, and the remaining \$20,000.00 par value to be used in making necessary repairs and improvements and for general capital purposes.

Pursuant to such authority applicant issued 573 shares, at par, prior to the expiration of such authority on September 1, 1916, and thereafter inadvertently issued, also at par, without obtaining the necessary authority, 25 additional shares of its capital stock. The proceeds obtained from the sale of the 25 shares of capital stock were used for capital purposes.

Applicant reports that from May 1, 1916, to December 31, 1917, it has expended for the acquisition of property and for improvements \$60,107.19 obtained from the sale of stock and from earnings. Under the authority of the Railroad Commission it has issued at par \$57,300.00 of its capital stock, leaving \$2,807.19 of capital expenditures which were financed through earnings and moneys realized from the sale of \$2,500.00 of stock without authority from the Railroad Commission.

**ORDER.**

Ventura Wharf and Warehouse Company having applied to the Railroad Commission for authority to issue \$2,700.00 par value of its common capital stock, a hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose

or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Ventura Wharf and Warehouse Company be and it is hereby granted authority to issue, at not less than par, 27 shares (\$2,700.00) of its capital stock upon the following conditions:

1. Applicant may issue 25 shares of its capital stock of the par value of \$100.00 each upon the surrender and cancellation of certificates for an equal number of shares heretofore issued subsequent to September 1, 1916, without authority.

2. Applicant may issue two shares of its capital stock of the par value of \$100.00 each and use the proceeds to reimburse its treasury for moneys expended for capital purposes.

3. Ventura Wharf and Warehouse Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month, until all of said stock has been issued and the proceeds obtained therefrom expended, shall make verified reports to the Railroad Commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall apply only to such stock as may be issued on or before October 1, 1918.

Dated at San Francisco, California, this nineteenth day of June, 1918.

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DECISION No. 5494.

IN THE MATTER OF THE APPLICATION OF JACKSON GAS LIGHT COMPANY, B. E. LETANG, OWNER, FOR INCREASE OF RATES.

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Application No. 3622.

*Decided June 19, 1918.*

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*C. P. Vincinni*, for Applicant.

*Robt. C. Bole*, city attorney, for Jackson Gas Light Company.

BY THE COMMISSION.

**OPINION.**

Jackson Gas Light Company applies for an increase of its rates for gas from \$2.50 per thousand cubic feet to \$4.00 per thousand cubic feet.

Jackson Gas Light Company operates a small coal gas generating plant in Jackson, Amador County, and serves gas for lighting and cooking to approximately 215 consumers. The plant consists of four coal gas generators, one of which at present is entirely abandoned, and a 10,000-cubic-foot holder capable, in its present condition, of only

approximately one-half this capacity, and a distribution system approximately three miles in length with 300 services and a maximum of 290 meters. This plant was constructed about the year 1880 and taken over by the present owner and operator, Mr. B. E. Letang, in about 1885, and has been operated continuously since then.

A hearing was held before Examiner Westover at Jackson on May 1, 1918, at which time the case was submitted with the understanding that Assistant Engineer Lloyd Henley would report further on the matter of general condition of plant and operating revenue and expense.

The price charged for gas by this company has been, for the last ten or fifteen years, \$2.50 per thousand. During the past two or three years the price of coal has materially increased, it being \$12.05 per ton in 1916 and \$16.15 in 1917, the latter price being in effect at the time of hearing.

The number of gas consumers decreased during the past year from approximately 290 in 1916 to 213 at the time of the hearing. The sales of gas have been limited, the consumption per consumer in 1917 being approximately 6,000 cubic feet per year. This amount is very small, being less than one-third of the sales on other systems in corresponding communities where the rates for gas have been approximately \$1.50 per thousand.

The company showed a small return in 1916 and a deficit of \$2,295.00 in the operations for 1917. The statistics and general operating expenses for the first four months of 1918, as set forth in Assistant Engineer Henley's report which has been filed with the commission in this case in accordance with stipulation at the hearing, are as follows:

Gas sold .....	516,000 cubic feet
Coal used .....	86 tons (1 ton coal per 6,000 cubic feet gas)
Coke returned .....	34.4 tons (800 pounds coke per ton coal)
Revenue:	
516,000 cubic feet gas at \$2.50 .....	\$1,290 00
34 tons coke at \$14.00 .....	476 00
Total revenue .....	\$1,766 00
Expenses:	
20 tons coal at \$16.15 .....	\$1,389 00
Labor:	
1 stoker at \$60.00 .....	240 00
1 superintendent at \$120.00 .....	480 00
Line .....	88 00
Taxes .....	90 00
Water and phone .....	18 00
Total expense .....	\$2,314 00
Total revenue .....	1,766 00
Operating deficit .....	\$548 00

NOTE.—The superintendent works one shift as stoker, besides performing all maintenance and repairs as well as meter reading, collecting, etc.

From the above it is apparent that at present rates the company would not be able to make operating expenses, its deficit being approximately \$140.00 per month. The revenue per consumer is only \$18.00 per year, approximately. The cause of this low revenue may be attributed partly to the high price which has been charged for gas, the rate of \$2.50 per thousand being about \$1.00 in excess of that which, in general, has been charged in small communities of this state during the past several years. Another cause has been the availability of wood for fuel, practically all consumers of applicant having wood ranges installed for cooking, thereby limiting the use of gas.

In view of the above facts, it would normally appear that relief might be obtained through a reduction in rates, thus encouraging more extensive use of gas, but on account of the expensive coal process employed, it would be necessary for sales to increase two and one-half times at present rates before the total revenue would offset operating expenses. In our opinion it is not at all probable that such an increase in sales could be obtained through any rate adjustment.

The commission's gas and electric department has investigated the question of the installation of an oil-gas generator to replace the present coal-gas set, which latter process is necessarily obsolete. It is found, however, that to install an oil generator with necessary accessories would cost in excess of \$3,000.00, and with the prevailing high cost of oil and the small sales per consumer, it does not appear that the installation of such a generator would be justified. While it is a fact that the existing rates of the applicant are materially higher than rates in similar localities in the state, it is clearly shown that they are not sufficient to yield operating expenses. Applicant has requested an increase to \$4.00 per thousand cubic feet and it appears that such a rate is necessary to meet present operating expenses. We doubt whether any permanent relief to applicant will be obtained by such a rate but believe it is due applicant and its consumers that the rate be established, as otherwise, the consumers can not expect service to be continued.

#### ORDER.

Jackson Gas Light Company having applied for authorization to increase its rates for gas supplied to the inhabitants of the town of Jackson, Amador County, and a public hearing having been held and the matter having been submitted and now ready for decision,

*It is hereby ordered* that Jackson Gas Light Company be and the same is authorized to charge and collect the following rate for gas on all meter readings taken on and after June 20, 1918, provided Jackson Gas Light

Company shall have filed with the Railroad Commission within ten (10) days from the date of this order a schedule of rates as herein set forth.

Rate:

\$4.00 per thousand cubic feet. Minimum bill, \$1.00 per month per meter.

Dated at San Francisco, California, this nineteenth day of June, 1918.

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DECISION No. 5499.

IN THE MATTER OF THE APPLICATION OF SANTA MONICA BAY HOME TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF ONE HUNDRED FORTY-SEVEN THOUSAND DOLLARS OF ITS BONDS TO REFUND A LIKE AMOUNT OF BONDS ISSUED BY HOME TELEPHONE AND TELEGRAPH COMPANY OF SANTA MONICA AND OCEAN PARK.

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Application No. 3658.

*Decided June 19, 1918.*

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*L. C. Torrance*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Santa Monica Bay Home Telephone Company applies for an order authorizing the issue of \$147,000.00 face value of its 5 per cent bonds in exchange for a like amount of bonds heretofore issued by Home Telephone and Telegraph Company of Santa Monica and Ocean Park, and now constituting a first lien on a large part of the properties of applicant, making applicant's present bond issue a first lien on the property.

A public hearing in the matter was held by Examiner Westover at Los Angeles.

Home Telephone and Telegraph Company of Santa Monica and Ocean Park was organized in 1904 with a capital stock of \$250,000.00, all common, and an authorized bond issue of \$150,000.00. All of the stock and bonds were issued and subsequently \$3,000.00 face value of bonds was retired through the sinking fund, leaving \$147,000.00 face value of bonds outstanding.

Thereafter, in 1907, that company being unable to further finance its operations, the applicant, Santa Monica Bay Home Telephone Company, was organized with a capital stock of \$250,000.00 preferred, and \$250,000.00 common, and an authorized bonded indebtedness of \$500,000.00.

In 1907, applicant purchased all of the assets, property and franchises of the Home company and has since that time operated the property, together with extensions as constructed, and now serves in Santa Monica, Venice, Sawtelle and vicinity, Los Angeles County, having

about 2,000 subscribers. The consideration for the transfer of the system to applicant was the issue by it of \$125,000.00 par value of its preferred stock and the assumption of the debts of the old company, including \$147,000.00 face value of bonds of the Home company then outstanding.

Applicant has issued a total of \$207,000.00 par value of its preferred stock, of which \$31,500.00 has been purchased by it upon assessment sales and placed in its treasury, leaving now outstanding a total of \$175,500.00 face value.

Applicant has also heretofore issued \$35,500.00 face value of its five per cent bonds, \$1,500.00 face value of which have been retired through the sinking fund provided in its deed of trust securing their payment, leaving \$34,000.00 face value of bonds now outstanding.

Applicant presented testimony showing an investment in the plant up to the time it was acquired by it of \$166,165.31, that it added \$119,735.79 between that date and April 1, 1918 making a total capital investment of \$285,901.10.

The bonds of the old company which applicant wishes to retire mature in 1935 and are subject to call after February 1, 1915, at 105 and interest. No general arrangement has yet been made with bondholders for an exchange of bonds, but applicant reports that some of the largest bondholders favor the exchange and is confident that all the bondholders, of which there are about 60, will favor the plan.

#### ORDER.

Santa Monica Bay Home Telephone Company having applied to the Railroad Commission for authority to issue \$147,000.00 face value of its first mortgage 5 per cent bonds, and a public hearing having been held thereon and it appearing to the commission that the proceeds of said bonds of applicant are reasonably required by it for the purposes specified in the order, which purposes are not chargeable to operating expenses or to income,

*It is hereby ordered* that Santa Monica Bay Home Telephone Company be and it is hereby authorized to issue \$147,000.00 face value of its 5 per cent bonds and to use the proceeds thereof for the purpose of acquiring from time to time \$147,000.00 face value of the 5 per cent first mortgage bonds heretofore issued by Home Telephone and Telegraph Company of Santa Monica and Ocean Park, now constituting a first lien upon part of the property of said Santa Monica Bay Home Telephone Company.

The above authority is granted upon the following conditions:

1. Said first mortgage bonds of Home Telephone and Telegraph Company of Santa Monica and Ocean Park when acquired shall be canceled

and the lien of any mortgage or deed of trust securing the payment of said bonds released of record.

2. Nothing herein contained shall be construed as a finding by the Railroad Commission of the value of applicant's property.

3. On or before the twenty-fifth day of each month applicant shall make verified report to the commission of the fact and date of issue of any bonds issued hereunder and the application of the proceeds thereof, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is to be made a part of this order.

4. The authority herein granted shall apply only to bonds issued on or before January 1, 1919.

5. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.

Dated at San Francisco, California, this nineteenth day of June, 1918.

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DECISION No. 5500.

IN THE MATTER OF THE APPLICATION OF WEST SAN JOAQUIN VALLEY WATER COMPANY AND MILLER & LUX, INCORPORATED, TO TRANSFER THEIR WATER WORKS AND SEWER SYSTEM IN FIREBAUGH TO THE CITY OF FIREBAUGH.

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Application No. 3820.

*Decided June 19, 1918.*

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BY THE COMMISSION.

**ORDER.**

The West San Joaquin Valley Water Company having asked authority to transfer to the city of Firebaugh, a city of the sixth class, for the sum of four thousand three hundred and fifty dollars (\$4,350.00), the public utility water system supplying consumers of that city, the conveyance to be made in accordance with the form of deed attached to the application, describing the property to be transferred as follows:

1. All the underground portion of the City Water Works owned and operated by the party of the first part in the city of Firebaugh, for the purpose of supplying water to the inhabitants of said city of Firebaugh, including all franchises connected therewith, and all water mains, pipes and conduits in the public streets of the said city of Firebaugh, and all meters, valves and connections and other underground works connected therewith, for the carriage and distribution of said water.

2. All the underground portion of the sewer system owned by the party of the second part in the city of Firebaugh, and used by the inhabitants of said city, together with all franchises connected there-

with and all sewer pipes, conduits, manholes, valves, connections and other underground works connected with or a part of said system.

3. All those certain lots, pieces or parcels of land situate, lying and being in the city of Firebaugh, county of Fresno, state of California, and more particularly bounded and described as follows, to wit:

Lots fifteen (15) and sixteen (16), in block twenty-three (23), of the town of Firebaugh, as laid down on the map of the town of Firebaugh, Fresno County, California, filed February 7, 1894, in Volume 1 of Miscellaneous Maps, page 13, in the office of the County Recorder of the county of Fresno, state of California.

And applicant having also asked authority to lease to the city of Firebaugh for a monthly rental of \$5.00 for one year with the option of renewing for an additional year at \$10.00 per month, or to purchase for the sum of four hundred dollars (\$400.00) the following property described in the before-mentioned deed as follows:

The pumping machinery and tanks now used in connection with the said water and sewer system, the said pumping plant being situated on the river bank north of block twenty-three, and the said tank being situated on lots ten and eleven on block twenty-four of said town of Firebaugh.

And the commission being of the opinion that this is not a case in which a public hearing is necessary,

*It is hereby ordered* that said application be and the same is hereby granted.

Dated at San Francisco, California, this nineteenth day of June, 1918.

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#### DECISION No. 5502.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE AND PLEDGE BONDS SECURING AN ISSUE OF NOTES, AND TO ISSUE, SELL AND DISPOSE OF SUCH NOTES.

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Application No. 3831.

*Decided June 19, 1918.*

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SECURITIES.—Applicant authorized to issue \$652,800.00 collateral trust notes secured by \$816,000.00 first mortgage bonds.

*Chickering & Gregory and Sweet, Stearns & Forward, by Allen Chickering,* for Applicant.

LOVELAND, *Commissioner.*

#### OPINION.

San Diego Consolidated Gas and Electric Company, in this application as amended, asks authority to execute an agreement securing the



payment of \$1,100,000.00 of 5-year collateral trust 6 per cent gold notes dated July 1, 1918, and issue, for the purposes and subject to the conditions hereinafter indicated, \$652,800.00 of said notes.

Applicant's balance sheet, dated April 30, 1918, shows the following:

Asset accounts:

Plant and franchise.....	\$1,912,131 44
Organization .....	22,262 65
Patent rights .....	366 46
Fixed capital—electrical department.....	\$4,185,625 29
Fixed capital—gas department.....	2,806,433 59
Plant purchased in lieu of plant constructed.....	60,224 58
	<hr/>
	7,052,283 46
Securities of other corporations.....	14,300 00
Other current assets.....	2,050 00
Bonds in treasury pledged.....	500,000 00
Cash .....	139,014 19
Other deposits .....	150 00
Notes receivable .....	11,261 15
Accounts receivable .....	211,838 32
Material and supplies.....	261,556 55
Prepaid expenses .....	5,493 27
Unamortized discount .....	665,314 45
Stock .....	\$292,721 00
Bonds .....	372,623 45
Other suspense .....	133,487 11
	<hr/>
Total asset accounts.....	\$10,961,539 05

Liability accounts:

Capital stock—	
Preferred, 7 per cent.....	\$533,700 00
Common .....	2,955,000 00
	<hr/>
	\$3,488,700 00
Bonds—	
First mortgage 5's, due March 1, 1939.....	\$5,130,000 00
Debenture 6's, due December 1, 1922.....	356,000 00
	<hr/>
	5,486,000 00
Notes—6 per cent collateral trust, due September 1, 1919.....	400,000 00
Notes payable .....	380,000 00
Accounts payable—	
System corporations .....	\$111,566 91
Audited vouchers and wages unpaid.....	149,461 72
Consumers' deposits .....	36,437 54
Miscellaneous accounts payable.....	641 76
	<hr/>
	298,107 93
Dividends accrued .....	27,738 25
Interest accrued .....	52,663 08
Taxes accrued .....	67,659 98
Reserve for accrued depreciation.....	642,671 35
Corporate surplus unappropriated.....	117,998 46
	<hr/>
Total liability accounts.....	\$10,961,539 05

For the 2 years and 4 months ending April 30, 1918, applicant reports revenues and disbursements as follows:

Item	Four months ending April 30, 1918	Twelve months ending Decem- ber 31, 1917	Twelve months ending Decem- ber 31, 1916
<b>Electric operations:</b>			
Operating revenues -----	\$364,763 67	\$926,668 93	\$930,713 05
Operating expenses -----	205,877 00	507,331 14	484,422 44
Net operating revenue -----	\$158,886 67	\$419,337 79	\$446,290 61
<b>Gas operations:</b>			
Operating revenues -----	\$373,765 33	\$702,693 37	\$620,319 89
Operating expenses -----	303,421 36	502,887 87	417,030 16
Net operating revenue -----	\$70,343 97	\$199,805 50	\$173,289 73
Total net operating revenue -----	\$229,230 64	\$619,143 29	\$619,580 34
<b>Nonoperating revenue:</b>			
Interest -----			\$130 17
Miscellaneous -----		\$1,419 45	241 90
Totals -----		\$1,419 45	\$672 07
Gross corporate income -----	\$229,230 64	\$620,562 74	\$620,252 41
<b>Deductions:</b>			
Interest on funded debt -----	\$92,286 66	\$255,079 68	\$234,660 00
Other interest -----	2,571 44	11,435 88	10,545 22
Amortization of debt discount -----	10,974 68	21,687 93	19,262 28
Miscellaneous -----	5,230 53	7,000 40	6,343 26
Total deductions -----	\$111,063 31	\$295,203 89	\$270,810 76
Balance carried to accumulated surplus -----	\$118,167 33	\$325,358 85	\$349,441 65
Accumulated surplus beginning of period -----	110,924 69	148,472 43	104,146 86
Miscellaneous additions to surplus -----		980 65	1,490 12
Accumulated surplus plus additions -----	\$229,092 02	\$474,811 93	\$455,078 63
<b>Deductions:</b>			
Common stock dividend -----	\$98,500 00	\$295,500 00	\$295,500 00
Preferred stock dividend -----	11,612 91	23,313 85	5,809 53
Miscellaneous -----	980 65	45,073 39	5,296 67
Total deductions -----	\$111,093 56	\$363,887 24	\$306,606 20
Accumulated surplus end of period -----	\$117,998 46	\$110,924 69	\$148,472 43

The operating expenses include depreciation charges amounting to \$120,000.00 per annum.

Applicant has an authorized bond issue of \$6,000,000.00, of which \$4,630,000.00 have been sold and are now outstanding, \$500,000.00 have been pledged as collateral and \$870,000.00 are in its treasury.

Section 3 of Article I of the company's mortgage, dated March 1, 1909, and executed to secure the payment of \$6,000,000.00 of bonds, provides in general that bonds No. 1651 and upwards (\$4,349,000.00) shall from time to time be certified by the trustee, to an amount or amounts in par value not exceeding in the aggregate 75 per cent of the actual and reasonable cash cost to the company of permanent extensions and additions of and to its plants, properties and equipment as the

same existed on January 1, 1909, over and above the sum of \$200,000.00 which the company covenants has been, or will be, without unnecessary delay, expended for such extensions and additions; provided that none of said bonds shall be certified unless and until the earnings from the operation of the plants and properties, at the time owned by the company, for the period of twelve consecutive months ending not more than sixty days prior to the respective applications for the certification of bonds, after deducting from such earnings all operating expenses, including taxes, insurance and customary expenditures for current repairs and maintenance ordinarily chargeable to operating expenses, shall have been in each case equal to at least twice the total annual interest charge on all bonds outstanding, together with the bonds for which application for certification is made and any secured indebtedness, the lien, or liens, of which shall be prior to the lien of this mortgage on any property hereafter acquired by the company.

In section 1 of Article III of its mortgage, the company agrees to deposit with the trustee in a "depreciation and renewal fund" on the first day of June in each of the years 1910 to 1914, inclusive, a sum equal to 3 per cent and on the first day of June in each of the years 1915 to 1938, inclusive, a sum equal to 5 per cent of the amount, in par value, of bonds outstanding on the first day of October next preceding each respective deposit. The amounts deposited with the trustee may be used by the company for renewals and replacements or for new construction or for the redemption of bonds. New construction financed through the "depreciation and renewal fund" can not be capitalized by subsequent bond issue.

Through the issue of stocks and bonds heretofore authorized applicant has been or will be able, it believes, to finance its capital expenditures to November 1, 1917, with the exception of \$8,053.48. In schedules 3 and 4, attached to the petition herein, applicant reports that from November 1, 1917, to April 30, 1918, it has incurred a net capital expenditure of \$237,210.47. Of the expenditures to April 30, 1918, \$183,666.40 has been financed through withdrawals from the "depreciation and renewal fund," leaving \$61,597.55 against which bonds may be issued. Because of these expenditures, applicant reports that under its deed of trust it can issue \$46,000.00 of bonds.

In Schedule No. 5, attached to the petition herein, applicant estimates its capital expenditures from May 1, 1918, to May 1, 1920, as \$731,100.00, divided as follows:

Department	Year ending May 1, 1919	Year ending May 1, 1920	Total
Gas .....	\$130,400 00	\$116,400 00	\$255,800 00
Electric .....	223,450 00	242,850 00	466,300 00
General .....	4,500 00	4,500 00	9,000 00
<b>Totals .....</b>	<b>\$367,350 00</b>	<b>\$363,750 00</b>	<b>\$731,100 00</b>

Mr. H. H. Jones, president and manager of San Diego Consolidated Gas and Electric Company, testified that the shipbuilding, military and naval activities in and about San Diego and the agricultural development in territory served by the company, necessitates the enlargement of its plant and the extension of its facilities. Applicant has completed its transmission line to San Juan Capistrano and on May 21, 1918, began purchasing electrical energy from the Southern California Edison Company. The construction of this line, Mr. Jones believes, will enable applicant to reduce its electrical operating expenses by approximately \$60,000.00 a year and result in a material saving of fuel oil.

Of the \$731,100.00 of estimated expenditures for the two-year period ending May 1, 1920, Mr. Jones believes that \$371,100.00 will be financed through withdrawals from the "depreciation and renewal fund," leaving \$360,000.00 which may be used as a basis for the issue of bonds and which would permit the issue of \$270,000.00 of bonds. Adding the \$46,000.00 of bonds referred to above to the \$270,000.00, makes a total of \$316,000.00. These bonds applicant proposes to pledge at the rate of 125 per cent of bonds for each 100 per cent of notes issued. To finance in part the capital expenditures incurred to April 30, 1918, and those to be incurred prior to May 1, 1920, applicant would issue \$252,800.00 of its 5-year collateral trust 6 per cent gold notes.

Applicant also requests authority to issue and pledge \$500,000.00 of its first mortgage bonds to secure the payment of \$400,000.00 of its 5-year collateral trust 6 per cent gold notes to be issued from time to time for the purpose of paying or refunding \$400,000.00 of 2-year 6 per cent notes due September 1, 1919.

Applicant proposes to issue its 5-year collateral trust 6 per cent gold notes, dated July 1, 1918, under an agreement substantially in the same form as the agreement filed in this proceeding and marked Exhibit No. 1. Under this agreement applicant would be permitted to issue not exceeding \$1,100,000.00 of notes, the payment of which would be secured by the pledging of \$1,370,000.00 of its first mortgage bonds. The notes are callable at 102. Of the notes, \$36,800.00 are to be issued forthwith, \$400,000.00 are to be deposited with the trustee for the purpose of paying or refunding \$400,000.00 of 2-year 6 per cent notes due September 1, 1919, and now outstanding, while \$663,200.00 of notes may be issued from time to time for the purpose of paying in part for capital expenditures.

I herewith submit the following form of order:

**ORDER.**

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for authority to execute an agreement and to issue bonds and notes as indicated in the foregoing opinion, a hearing having been held and the commission being of the opinion that the

money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

*It is hereby ordered* that San Diego Consolidated Gas and Electric Company be and it is hereby granted authority to execute an agreement substantially in the same form as the agreement filed in this proceeding and marked Exhibit No. 1.

*It is hereby further ordered* that San Diego Consolidated Gas and Electric Company be and it is hereby granted authority to issue \$652,800.00 of 5-year collateral trust 6 per cent gold notes payable July 1, 1923, and to issue and pledge as security for the payment of said notes \$816,000.00 of its first mortgage 5 per cent 30-year gold bonds payable March 1, 1939.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) Of the notes herein authorized, \$400,000.00 face value shall be deposited with the trustee under the agreement herein authorized to be executed for the purpose of paying or refunding \$400,000.00 of 2-year 6 per cent notes payable September 1, 1919.

(2) The remainder of the notes—\$252,800.00 face value—shall be sold for not less than 95 per cent of their face value plus accrued interest.

(3) The proceeds from the sale of \$36,800.00 of notes herein authorized to be issued and sold, shall be used by applicant for the purpose of paying floating indebtedness referred to in Schedule No. 1 attached to the petition herein.

(4) The proceeds from the sale of \$216,000.00 of notes herein authorized to be issued shall be deposited in a special fund and expended only for such purposes as the Railroad Commission may hereafter authorize in a supplemental order or orders.

(5) The approval herein given of the aforementioned agreement is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said agreement as to such other legal requirements to which said agreement may be subject.

(6) San Diego Consolidated Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the issue of the bonds and notes herein authorized, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) Upon the payment or refunding of any of the notes herein authorized, a proper proportionate amount of the bonds herein authorized to be pledged, shall be returned to applicant's treasury, and thereafter issued only upon further order of the Railroad Commission.

(8) The authority herein granted shall not become effective until San Diego Consolidated Gas and Electric Company has paid the fee specified in the Public Utilities Act.

(9) The authority herein granted shall apply only to such bonds and notes as may be issued on or before September 30, 1919.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of June, 1918.

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DECISION No. 5503.

IN THE MATTER OF THE CONSTRUCTION AND OPERATION OF ELECTRIC UTILITIES DURING THE EMERGENCY CREATED BY WAR.

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Case No. 1176.

*Decided June 22, 1918.*

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**POOLING OF ELECTRIC POWER—APPOINTMENT OF POWER ADMINISTRATOR.**—Due to power shortage and war emergency, electric utilities in northern and central California have pooled their power interests, and a power administrator is appointed to administer the same under the direction of the Railroad Commission.

*C. P. Cutten, John A. Britton and P. M. Downing*, for Pacific Gas and Electric Company.

*H. F. Jackson and J. F. Pollard*, for Sierra and San Francisco Power Company and Coast Valleys Gas and Electric Company.

*Guy C. Earl, Chaffee Hall and E. W. Beardsley*, for Great Western Power Company.

*W. M. Shepard*, for California-Oregon Power Company.

*A. K. Harford and J. T. Whittlesey*, for Universal Gas and Electric Company.

*Albert Casper*, for Vallejo Light and Power Company.

*F. W. Mielenz*, for Napa Valley Electric Company.

*L. A. Susman*, for California Telephone and Light Company.

*D. W. Folsom*, for Federal Fuel Administration and Federal Oil Administration.

*Samuel Kahn*, for Western States Gas and Electric Company.

*W. F. Deteret*, for Northern California Power Company.

*S. Waldo Coleman*, for Coast Counties Gas and Electric Company.

*Frederick O'Brien*, for Federal Food Administration.

*Edward Elliott*, for Federal Reserve Bank.

DEVLIN, *Commissioner*.

#### OPINION.

The reasons for the initiation of this case by the commission are fully set forth in Decision No. 5214 as follows:

“This proceeding was instituted by the Railroad Commission of the state of California on its own motion, having for its object an investigation of the construction and operation of electric utilities so as to enable it to determine the special needs of these utilities during the war emergency and in order to enable the commission to render prompt assistance to the government, the utilities and the public to the end that there would be no shortage in service on the part of the utilities or interruption of service to industries.”

This case has been and will be held open during the war emergency in order that matters such as those considered in this opinion may be taken up at any time without instituting new proceedings. Since the last decision in this matter the shortage of power has become more serious than expected because of the materially increasing demands for service by various war industries and an unprecedented shortage of hydroelectric power. The situation appeared to be so critical in the northern and central parts of the state that representatives of the power companies were requested to confer with the commission on June 11, 1918. A notice of the conference was sent to certain Federal authorities, who were invited to be present.

At this conference, and after the general situation was explained to the participants, all the utilities, through their respective representatives, agreed in substance to the plan of pooling power, the postponement of consideration of financial adjustments occasioned by such pooling, and to co-operate with the commission in the adoption and enforcement of a priority list, if one should be found necessary. Before the adjournment of said conference a committee of seven, representing the larger power companies serving San Francisco and vicinity and the northern portion of the San Joaquin Valley and the Sacramento Valley, was selected by the participating companies to confer further with this commission and to aid in the consummation of said proposed plan to relieve the situation.

The discussions at the different conferences between that committee and the commission were in general along the same lines as at the general conference on June 11th. The final results of the matter were that the power companies agreed: (1) To pool their power and to place in the hands of the commission such authority over the operations of their several companies as would permit it to direct the distribution

of that power to what appears to the commission to be to the best interests of the situation during the present war emergency, or until the commission shall by appropriate order declare that there is no further need of such direction; agreeing, to this end, that the commission could from time to time make such orders, either formal or informal, as the situation might require. (2) That this authority should be directly exercised by a power administrator, to be appointed by the commission, the orders of whom should be subject to the direction and review of the commission. (3) That the commission might, after conference with the Federal Food, Fuel and Oil Administrations, The Federal Reserve Bank, The Emergency Fleet Corporation, and such other Federal authorities and parties as the commission deemed proper, adopt and from time to time modify and revise or suspend, a priority list providing for the priorities in the use, amount and time of service of electric power.

On June 20th the commission had a further hearing in this case, after notice given to those who had participated in the previous conference on June 11th. At this time the transcript of that conference was by stipulation of all parties made part of this record, and Mr. L. S. Ready, the head of the commission's gas and electric division, testified regarding what had taken place at the meetings of the said committee of seven with the commission and its representatives, so this matter might also become part of this record. Announcement was made by the presiding commissioner of the desire and intention of the commission to reduce to formal order the results and conclusions of the several conferences, stating that absence of expressed objection to that course would be considered a stipulated approval thereof; there was no expressed objection to the substance of the proposed plan by any of the parties. Representatives of the various departments of the Federal government whose appearances were entered at this hearing expressed their belief that the commission should exercise this authority; stated that the plan met with their approval and that such action as was taken by the commission in connection with the authority it was about to assume would receive the fullest co-operation of the several branches of the Federal government they represented.

At the present time we are faced by an emergency sufficiently grave to require unusual measures. A power shortage is a very serious thing under normal conditions, but its gravity is multiplied under war conditions. Without pooling of power and a central control in distributing it the present shortage threatens to seriously affect the various war industries and food production so vitally necessary to the Nation. I believe the Railroad Commission or its authorized representative is the proper party to exercise that centralized control. The power companies affected and the local Federal authorities participating agree



with me in that belief and have actively assisted in making it an accomplished fact; the power companies by pooling their power and agreeing to permit it to be distributed under direction of the commission, and the Federal authorities by offering to co-operate. I have no hesitation, under these circumstances, in recommending that the commission assume this responsibility.

As the matter now stands the commission will take such action in regard to the power situation as appears necessary, relying on the legal rights vested in it by the Public Utilities Act, the stipulations made by the companies agreeing to the general procedure which is set forth in the record in this matter, and the support of the various Federal authorities.

I recommend the following form of order :

#### ORDER.

A public hearing having been held by the commission in the above-entitled matter and consideration having been given to the assumption by it of the administration of power and the creation of a power administration; and it appearing that it is to the best interests of the consumers, the utilities, the general public and the Federal government in the present emergency that this authority should be exercised by the commission, and basing its order on the power vested in it by the Public Utilities Act, the stipulations made by the public utilities interested, and the approval and offers of co-operation of the representatives of the Federal government referred to in the opinion herein,

*It is hereby ordered* that the position of Power Administrator be and is hereby created; that said Power Administrator shall and he is hereby empowered to make, issue and enforce, modify, amend and set aside such orders as to him are deemed necessary, convenient or appropriate to effectuate the purposes in the foregoing opinion set forth in the matter of electric power control and administration; provided, however, that the exercise of such authority by such Power Administrator shall at all times be subject to the direction and review of the Railroad Commission of the state of California.

The public utilities listed in Exhibit "A," hereunto annexed and made a part of this order, are the companies affected and subject to the provisions hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-second day of June, 1918.

## EXHIBIT "A."

Alpine Evaporated Cream Company.	Novato Light and Power Company.
Bay Point Light and Power Company.	Pacific Gas and Electric Company.
Bell Electric Company.	Pinole Light and Power Company.
Alexander Brown Electric Plant.	Plumas Light and Power Company.
California Telephone and Light Company.	Sacramento Valley Sugar Company.
City Electric Company.	Sierra and San Francisco Power Com-
Coast Counties Gas and Electric Company.	pany.
Coast Valleys Gas and Electric Company.	Snow Mountain Water and Power Com-
Durham Light and Power Company.	pany.
Fair Oaks Electric Company.	Tuolumne County Electric Power and
Great Western Power Company.	Light Company.
Middle Yuba Hydroelectric Power Com-	Universal Electric and Gas Company.
pany.	Utica Gold Mining Company.
Mountain Light and Water Company.	Vacaville Water and Light Company.
Napa Valley Electric Company.	Vallejo Electric Light and Power Com-
Northern California Power Company,	pany.
Consolidated.	Western States Gas and Electric Com-
	pany.

## DECISION No. 5504.

IN THE MATTER OF THE APPLICATION OF UNION HOME TELEPHONE  
AND TELEGRAPH CORPORATION FOR PERMISSION TO RENEW  
NOTES AND SUBSTITUTE COLLATERAL THEREFOR.

Application No. 2984.

*Decided June 21, 1918.*

W. W. Butler, for Applicant.

EDGERTON, *Commissioner*.

## OPINION.

Union Home Telephone and Telegraph Corporation asks authority to issue one-year 7 per cent notes having an aggregate face value of \$23,500.00 for the purpose of paying or refunding a \$23,500.00 indebtedness represented by notes set forth in Exhibit "A," attached to the petition herein, and to pledge bonds to secure the payment of said notes.

Of the \$23,500.00 indebtedness, \$19,500.00 is secured by the deposit of \$37,000.00 of applicant's first mortgage bonds and \$8,500.00 of applicant's 6 per cent debenture bonds. The debenture bonds are in turn secured by \$21,250.00 of first mortgage bonds, so that in effect the \$19,500.00 of notes are secured by \$58,250.00 of first mortgage bonds. The original notes were issued and the bonds pledged prior to the effective date of the Public Utilities Act.

Applicant now proposes to pledge \$50,000.00 of its first mortgage bonds to secure \$20,500.00 of the notes listed in Exhibit "C," attached

to the petition herein; \$3,000.00 of the notes set forth in Exhibit "C" are unsecured.

The authority herein granted should not be interpreted as an approval of a policy favoring the pledging of bonds at a ratio of two to one, or more. If any payments are made on the notes herein authorized, a proper proportion of the bonds pledged should be returned to applicant's treasury and hereafter issued only upon further order of the commission.

I herewith submit the following form of order:

#### ORDER.

Union Home Telephone and Telegraph Corporation having applied to the Railroad Commission for authority to issue notes and bonds and to pledge said bonds as collateral, and a hearing having been held,

*It is hereby ordered* that Union Home Telephone and Telegraph Corporation be and it is hereby granted authority to issue notes and first mortgage bonds and pledge said bonds as follows:

Payee	Face of note	Number of first mortgage bonds of Union Home Telephone and Telegraph Company to be pledged as collateral
San Bernardino National Bank.....	\$1,000 00	1562, 1563, 1564
The John M. C. Marble Co.....	2,500 00	1565-1568, both incl., and 1534
The John M. C. Marble Co.....	5,000 00	1524-1533, incl.
National Bank of California.....	1,000 00	None
Kellogg S. and S. Company.....	3,000 00	1545-1552, incl.
Kellogg S. and S. Company.....	2,000 00	1516-1520, incl.
Kellogg S. and S. Company.....	4,000 00	1506-1515, incl.
National Bank of California.....	1,000 00	None
The John M. C. Marble Co.....	1,000 00	None
First National Bank of Long Beach...	1,000 00	1521-1523, incl.
First National Bank of Long Beach...	2,000 00	1535-1540, incl.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The proceeds obtained through the issue of the notes herein authorized shall be used to pay or refund the notes listed in Exhibit "A," attached to the petition herein.

(2) If any payments are made on the notes herein authorized to be issued, there shall be returned to applicant's treasury a proper proportion of the bonds pledged as collateral, said bonds to be issued thereafter only upon further order of the Railroad Commission.

(3) Union Home Telephone and Telegraph Corporation shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds from the issue of the notes herein authorized, and on or before the twenty-fifth day of each month the company shall make a verified report to the commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

(5) The authority herein granted shall apply only to such notes and bonds as may be issued on or before September 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fourth day of June, 1918.

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DECISION No. 5505.

IN THE MATTER OF THE APPLICATION OF H. E. BIGELOW TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE WITHDRAWAL OF SERVICE FROM CASCADE AND HUNTINGTON LAKE, FRESNO COUNTY, CALIFORNIA.

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Application No. 3454.

*Decided June 21, 1918.*

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*Ernest Klette*, for Applicant.

*E. R. Davis*, for San Joaquin & Eastern Railroad Company.

*J. W. Gilkyson*, for The Pacific Telephone and Telegraph Company.

*W. H. Thrower*, *in propria persona*.

BY THE COMMISSION.

**OPINION.**

H. E. Bigelow, doing business under the fictitious name of H. E. Bigelow Telephone Company, applies for an order authorizing the withdrawal of telephone service from Cascade and Huntington Lake, in Fresno County.

A public hearing upon the application was held by Examiner Westover at Fresno on March 5th. It then appeared that a basis for agreement which would provide for the telephone service in question being rendered by United States Forest Service had been suggested. June 5th the commission was advised that such agreement had been perfected.

Applicant constructed and began operating a telephone system in connection with his stage service about 1912. His lines now operated extend from O'Neals through Northfork to Prince's Mill, a distance of about 28 miles; from O'Neals through Friant to Clovis, a total distance of about 25 miles; from O'Neals to Auberry, a distance of about 15 miles; and from O'Neals to Zebra and vicinity, a distance of about seven miles. These lines are in Fresno and Madera counties.

Applicant entered into an agreement with the San Joaquin & Eastern Railway Company, under date of April 21, 1915, providing for the use

by him of one of that company's two metallic circuits extending along the line of its railroad between El Prado and Cascada, a distance of about 56 miles and connecting with applicant's line about 5½ miles long, extending from Huntington Lake through Cascada, to a point about two miles south of there. This line has not been operated since May 10, 1917, when the railroad company required applicant to cease operating over its line. After that date patrons at Cascada, Huntington Lake and in that vicinity were without the right to telephone service, but on occasions of urgency the railroad company relayed messages out to stations on applicant's lines as a matter of accommodation.

The Forest Service has now agreed with Mr. Bigelow to maintain and operate the Bigelow lines in the vicinity of Huntington Lake and Cascada, to which it has built a connection, and give the use of its switchboards at Shaver and Northfork subject to the use of its lines for government business; title to the Bigelow lines to remain in Mr. Bigelow and repairs to instruments to be made by him; he to provide agents at Huntington Lake and Cascada to collect tolls.

Satisfactory arrangements having been made for the continuation of the service in question, the application will be dismissed.

#### ORDER.

H. E. Bigelow, doing business under the fictitious name of H. E. Bigelow Telephone Company, having applied for an order authorizing the withdrawal of telephone service from Cascada and Huntington Lake, in Fresno County, a public hearing having been held thereon and subsequently arrangements having been made by applicant for the continuation of service under conditions satisfactory to the commission,

*It is hereby ordered* that the application be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-fourth day of June, 1918.

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#### DECISION No. 5508.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE, SELL AND DISPOSE OF PREFERRED STOCK, BONDS AND NOTES.

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Application No. 3071.

*Decided June 24, 1918.*

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BY THE COMMISSION.

#### THIRD SUPPLEMENTAL ORDER.

Good cause appearing,

*It is hereby ordered* that condition 1 of the order in Decision No. 4629, dated September 8, 1917, be and the same is hereby amended so as to

permit San Diego Consolidated Gas and Electric Company to pay a brokerage fee of not exceeding 5 per cent on the unsold portion of the \$345,500.00 of stock referred to in the order in said Decision No. 4629, dated September 8, 1917.

*It is hereby further ordered* that the order in Decision No. 4629, dated September 8, 1917, as amended, shall remain in full force and effect except as modified by this third supplemental order.

Dated at San Francisco, California, this twenty-fourth day of June, 1918.

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Decision No. 5509.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING IT TO MAKE, EXECUTE AND DELIVER A TRUST DEED COVERING ITS PROPERTY TO SECURE A BONDED INDEBTEDNESS AND TO ISSUE, SELL AND DELIVER TEN MILLION DOLLARS OF ITS BONDS UNDER SAID TRUST DEED.

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Application No. 3032.

*Decided June 21, 1918.*

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BY THE COMMISSION.

**TWELFTH SUPPLEMENTAL ORDER.**

Southern California Edison Company having filed with the Railroad Commission a statement showing that it has expended for construction purposes during the month of May the sum of \$497,964.38;

And it appearing that the sum so expended was for proper capital purposes and that applicant is entitled to expend \$373,473.29 of the proceeds from the \$3,000,000.00 of bonds referred to in subdivision "a" of condition "3" of the order in Decision No. 4468, dated July 19, 1917, to finance in part said construction expenditures; now, therefore,

*It is hereby ordered* that Southern California Edison Company be and it is hereby authorized to use \$373,473.29 of the proceeds from the \$3,000,000.00 referred to in subdivision "a" of condition "3" of the order in Decision No. 4468, dated July 19, 1917, to pay in part for its construction expenditures during the month of May, 1918.

Dated at San Francisco, California, this twenty-fourth day of June, 1918.

## DECISION No. 5510.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHTS AND PRIVILEGES UNDER A FRANCHISE GRANTED BY THE CITY OF SAN BUENAVENTURA BY ORDINANCE NO. 193 ON DECEMBER 22, 1913.

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Application No. 3134.

*Decided June 24, 1918.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to this commission for a certificate declaring that public convenience and necessity require the exercise by it of the franchise privileges conferred by Ordinance No. 193 of the city of San Buenaventura, attached to the application herein and marked "Exhibit B," which ordinance grants to said company, its successors and assigns, the right to construct, maintain and operate a system of telephone and telegraph wires over, along and under the public streets, alleys, avenues, thoroughfares and public highways in the city of San Buenaventura, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business in said city, and the commission being of the opinion that a public hearing in this matter is unnecessary, and that this application should be granted,

*It is hereby ordered* that said application be and the same is hereby granted; provided, that neither said applicant, its successors nor assigns, shall ever claim before this commission or any other public body a value for said franchise for rate fixing or other purposes in excess of the amount actually paid to the city of San Buenaventura as the consideration for the grant of such franchise, which amount is stated in the application to be \$235.00.

Dated at San Francisco, California, this twenty-fourth day of June, 1918.

## DECISION No. 5511.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHTS AND PRIVILEGES UNDER A FRANCHISE GRANTED BY THE CITY OF RIALTO BY ORDINANCE NO. 25 ON DECEMBER 3, 1912.

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Application No. 3133.

*Decided June 24, 1918.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to this commission for a certificate declaring that public convenience and necessity require the exercise by it of the franchise privileges conferred by Ordinance No. 25 of the city of Rialto, attached to the application herein and marked Exhibit "B," which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances, conduits, and to lay underground cables for the transmission of electricity for telephone and telegraph purposes, in, upon and under the streets, alleys, avenues and thoroughfares and public highways in the city of Rialto, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business in said city, and a public hearing having been held in this matter and the commission being of the opinion that this application should be granted,

*It is hereby ordered* that said application be and the same is hereby granted; provided, that neither said applicant, its successors nor assigns, shall ever claim before this commission or any other public body a value for said franchise for rate fixing or other purposes in excess of the amount actually paid to the city of Rialto as the consideration for the grant of such franchise, which amount is stated in the application to be \$150.00

Dated at San Francisco, California, this twenty-fourth day of June, 1918.



## Decision No. 5514.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED TERMINALS COMPANY, THE HASLETT WAREHOUSE COMPANY, THE HUTTON WAREHOUSE, PENINSULA WAREHOUSE, SAN FRANCISCO WAREHOUSE COMPANY, SEA WALL U. S. BONDED WAREHOUSE, SOUTH END WAREHOUSE COMPANY, AND VALLEJO BONDED AND FREE WAREHOUSES, FOR AUTHORITY TO INCREASE CHARGES FOR HANDLING AND WEIGHING COMMODITIES IN WAREHOUSES AT THE PORT OF SAN FRANCISCO.

## Application No. 3703.

IN THE MATTER OF THE APPLICATION OF DE PUE WAREHOUSE COMPANY FOR AUTHORITY TO INCREASE CHARGES FOR HANDLING AND WEIGHING COMMODITIES IN WAREHOUSES AT THE PORT OF SAN FRANCISCO.

## Application No. 3704.

IN THE MATTER OF THE APPLICATION OF TURNER-WHITTELL WAREHOUSES AND NATOMA WAREHOUSES FOR AUTHORITY TO INCREASE CHARGES FOR HANDLING AND WEIGHING COMMODITIES IN WAREHOUSES AT THE PORT OF SAN FRANCISCO.

## Application No. 3711.

IN THE MATTER OF THE APPLICATION OF LAWRENCE WAREHOUSE COMPANY FOR AUTHORITY TO INCREASE CHARGES FOR HANDLING AND WEIGHING COMMODITIES IN WAREHOUSES AT OAKLAND AND SACRAMENTO.

## Application No. 3712.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED TERMINALS COMPANY FOR AUTHORITY TO INCREASE CHARGES FOR HANDLING AND WEIGHING COMMODITIES IN ITS SACRAMENTO VALLEY DOCK AND WAREHOUSE, LOCATED IN YOLO COUNTY, ON THE SACRAMENTO RIVER, OPPOSITE THE CITY OF SACRAMENTO.

## Application No. 3736.

*Decided June 25, 1918.*

WAREHOUSE RATES.--Increase in warehouse rates authorized to care for agreed advance in labor costs.

*C. W. Durbrow*, for Applicants.

*Seth Mann*, for San Francisco Chamber of Commerce.

*John A. O'Connell*, for certain men working in the warehouses and Mr. Ellisson, secretary for Waterfront Federation.

*H. R. Blair*, for Grocers' Brokers Association of San Francisco.

*W. E. Gravell*, for M. J. Brandenstein.

*DEVLIN, Commissioner.*

**SUPPLEMENTAL OPINION.**

This commission on May 25, 1918, as per Decision No. 5427, authorized petitioners in the above-numbered applications to increase certain

labor charges for the handling and weighing of commodities at the different warehouses located at San Francisco, Oakland and Sacramento, and in Yolo County, opposite the city of Sacramento. The increases allowed were published in tariffs of individual companies dated May 28, 1918, and became effective May 31, 1918. Without enumerating the specific increases, it may be said that in the main they ranged from 50 per cent to 80 per cent.

In the original applications and in the testimony and exhibits presented at the hearings, applicants based their request for the increases upon the fact that the labor costs at San Francisco and at the interior points were extremely low when the rates covering charges for labor furnished by warehousemen were first filed with this commission.

The evidence shows that warehouse laborers, in 1912, received at San Francisco \$2.50 for a nine-hour day; that they were being paid \$3.00 per day at the time the original applications were filed, April 27, 1918, and that they were demanding at the time of hearing \$4.00 for an eight-hour day. Applicants were willing to concede \$4.00 for a nine-hour day. Subsequent to the hearings in the original proceeding, applicants were compelled, because of a strike among their employees, to meet certain of the latter's demands; they were required to pay \$4.00 per day of nine hours from May 1st to May 31st, inclusive, and, commencing June 1, 1918, 50 cents an hour, or \$4.50 for a nine-hour day.

The adjustment of this strike was brought about by the intervention of Federal Food Commissioner Merritt, with an understanding between warehousemen and their employees that demands made for 50 cents an hour based on an eight-hour day and 75 cents per hour for all overtime would be given further consideration and a supplemental application presented to the Railroad Commission for authority to increase handling charges to offset the increases in wages. It is the contention in this supplemental petition that increases in handling charges granted by Decision No. 5427 were only sufficient to meet labor costs based on \$4.00 for a nine-hour day and will not suffice under the increased burden which must be assumed by the change to \$4.75 for a nine-hour day.

Petitioners now seek another advance in their rates and set forth two propositions: The first, that there be a horizontal increase of 20 per cent in the labor charge for loading or unloading cars, handling commodities into and from warehouses and for the weighing of commodities; the second being a graduated scale providing an increase of 5 cents per ton for loading and unloading cars, a slight increase for services rendered in stencilling, burlapping, oversacking and resacking, and a scale of charges for the handling of general merchandise, ranging from 45 cents to 65 cents per ton, based on the weight and kind of packages handled.

Notices of this hearing were given to all interested parties, but no one appeared in opposition.

The material facts disclosing the manner in which the commodities are handled, the time consumed and cost of handling are set forth in our report in Decision No. 5427 and need not be restated. The testimony offered at this hearing was in the main directed to the fact that the increase of 75 cents per day for labor warranted a corresponding increase in the rates assessed for the service furnished.

Applicants' Exhibit No. 11, introduced at the hearing June 14, 1918, is a statement of revenue from labor services and the wage expense for the month of May, 1918, at six warehouses, as follows:

	Receipts	Expenditures
Vallejo Bonded and Free Warehouses.....	\$786 11	\$1,215 72
South End Warehouse Company.....	2,120 29	3,596 20
Associated Terminals Company.....	7,935 20	10,051 15
Haslett Warehouse Company.....	8,614 60	12,570 30
Turner-Whittell Warehouses .....	657 92	1,174 00
San Francisco Warehouse Company.....	8,253 94	9,298 40
<b>Totals .....</b>	<b>\$28,398 06</b>	<b>\$37,905 77</b>

This exhibit shows a deficit suffered by these warehouses of \$9,507.71 for the thirty-one day period and is based on actual wages paid at \$4.00 for a nine-hour day. The deficit does not include cost of superintendence, insurance, light, power or any part of overhead expenses.

Exhibit No. 12 sets forth the schedule of wages at applicants' warehouses beginning December, 1912, and including the wage demanded by the laborer today. This shows that, together with the compensation insurance since 1912, the labor costs have increased 95.7 per cent. Details of the exhibit are shown as follows:

December, 1912:

\$2.50 per nine hours.

December, 1916:

\$2.50 per nine hours.

.075 insurance at 3 per cent.

\$2.575 per day.

Equals 3 per cent advance over December, 1912.

March, 1917:

\$2.75 per nine hours.

.0825 insurance at 3 per cent.

\$2.8325 per day.

Equals 13.3 per cent advance over December, 1912.

August, 1917:

\$3.00 per nine hours.

.09 insurance at 3 per cent.

\$3.09 per day.

Equals 23.6 per cent advance over December, 1912.

May, 1918:

\$4.00 per nine hours.  
 .12 insurance at 3 per cent.

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\$4.12 per day.

Equals 64.8 per cent advance over December, 1912.

Demanded:

\$4.75 per nine hours.  
 .14 $\frac{1}{4}$  insurance at 3 per cent.

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\$4.89 $\frac{1}{4}$  per day.

Equals 95.7 per cent advance over December, 1912,  
 and

18.7 per cent advance over May, 1918.

The rates here under discussion involve only labor charges and while applicants' system of accounting does not segregate expenses in such a manner as to allocate positively the cost of handling commodities, they have shown by special checks that it takes approximately one hour's labor to double handle one ton: that is, putting it into and taking it out of the warehouse. Under the schedule of wages now demanded by employees this labor, \$4.75 for nine hours, costs approximately 53 cents per hour, for which service applicants are seeking authority to charge 54 cents per ton and since only an average of one ton is handled per hour, the margin is but one cent. If to the labor cost is added the compensation insurance of 14 $\frac{1}{4}$  cents per day (Exhibit No. 12) there is a total cost of \$4.89 $\frac{1}{4}$  for a nine-hour day, or 54 $\frac{1}{3}$  cents per hour, thus creating an actual loss, based on applicants' claimed costs, which are not disputed, and which do not include any overhead charges.

There is much demand for this class of labor, especially in San Francisco, where applicants compete with employers using stevedores and longshoremen along the water front, and the testimony shows that men are continually changing to the water front work because of the materially higher wages, making the warehouses somewhat of a training school for other employers who offer greater compensation. Counsel for applicants stated that he considered that under all circumstances now existing, including the competition for securing labor, the wage demanded in this instance is fair and just.

The alternative proposition of a graduated scale of charges was not urged at the hearing, and as they would bring about radical changes, increases and decreases, not tested in any manner, but purely speculative, they will be given no further consideration at this time.

The fact that these warehouses sustained a loss for labor services performed in May, 1918, and that since 1912 wages, including compensation insurance, have increased 95.7 per cent, it is my conclusion, upon careful consideration of all the evidence submitted at both hearings, that under the existing war conditions the supplemental petitions should be granted.

I submit the following form of supplemental order:

**SUPPLEMENTAL ORDER.**

*It is hereby ordered* that the Associated Terminals Company, the Hutton Warehouse, Peninsula Warehouse, San Francisco Warehouse Company, Sea Wall U. S. Bonded Warehouse, South End Warehouse Company, Vallejo Bonded and Free Warehouses, De Pue Warehouse Company, Turner-Whittell Warehouses, Natoma Warehouses, located at San Francisco; Lawrence Warehouse Company, Oakland and Sacramento, and Associated Terminals Company, Yolo County, be and the same are hereby granted authority to further increase rates for handling commodities to the following basis, effective July 1, 1918:

	Ton—2,000 pounds.	
Unloading car -----	30 cents	(Packages 150 pounds or less)
	39 cents	(Packages over 150 pounds)
Weighing -----	42 cents	
Handling into and from warehouse -----	54 cents	
Loading car -----	36 cents	(Packages 150 pounds or less)
	48 cents	(Packages over 150 pounds)

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fifth day of June, 1918

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DECISION No. 5515.

IN THE MATTER OF THE APPLICATION OF WILLIAM J. FOWLER,  
RECEIVER OF THE PROPERTY OF THE SACRAMENTO VALLEY  
WEST SIDE CANAL COMPANY, FOR AN ORDER AUTHORIZING AN  
INCREASE IN RATES FOR WATER FOR IRRIGATION.

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Application No. 3369.

*Decided June 26, 1918.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

It appearing that an emergency exists with reference to the supply of water from the water system of Sacramento Valley West Side Canal Company, and the Federal Food Commissioner for California having represented to this commission that it is necessary that certain rules with reference to rotation in service immediately be put into effect in order that the needs of the Federal Government with reference to food supply in the present emergency be met, and the commission finding as a fact that the following rules and regulations are reasonable and are

necessary immediately to be put into effect by applicant for the service of water from said system.

*It is hereby ordered* that Wm. Fowler, as receiver of the property of the Sacramento Valley West Side Canal Company, be and he hereby is authorized and directed to immediately put into effect upon said system the following rules and regulations and continue the same in effect until notified by the Railroad Commission:

(1) For the period of one week from the date hereof, unless otherwise ordered, water is to be withdrawn from general crops excepting land in corn now suffering for water or land ready to be planted to corn, and also excepting orchards that would be very materially injured by withdrawal of water at this time.

(2) Land in rice in excess of acreage entitled to water under previous orders of this commission be denied any further water whatever in excess of that due under such orders.

(3) Where it appears that water is being wasted by any grower or that any grower is receiving an unequal share of water, in view of the present emergency, the supply being rendered to such grower may be reduced or entirely withdrawn until the cause of the waste or the unequal distribution of water has been corrected to the satisfaction of the representative of the Federal Food Administrator.

Dated at San Francisco, California, this twenty-sixth day of June, 1918.

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DECISION No. 5516.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND  
TERMINAL RAILWAYS FOR AUTHORITY TO PLEDGE AS COLLAT-  
ERAL SECURITY ITS GENERAL LIEN MORTGAGE BONDS.

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Application No. 3887.

*Decided June 27, 1918.*

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A. L. Whittle, for Applicant.

DEVLIN, *Commissioner.*

**OPINION.**

San Francisco-Oakland Terminal Railways asks authority to issue and pledge \$77,000.00 face value of its general lien mortgage bonds.

Applicant reports that on April 5, 1918, a judgment for the sum of \$20,000.00 and costs was entered against it and C. C. Way in the Superior Court of the state of California in and for the county of Alameda, in an action brought by Matilda Dunbar to recover damages for personal injuries; that on May 24, 1918, a judgment for the sum

of \$10,000.00 and costs was entered against it in the Superior Court of the state of California in and for the county of Alameda, in an action brought by Lester Charves, a minor, by Frank Charves, his guardian ad litem, to recover damages for personal injuries, that on June 10, 1918, a judgment for the sum of \$5,110.00 and costs was entered against it in the Superior Court of the state of California in and for the county of Alameda in an action brought by Molly Kobida and Joe Kobida to recover damages for personal injuries; that in each of these cases good grounds exist for the reversal of the judgment; that if said judgments are not reversed, it desires to appeal from said judgments to the Supreme Court of the state of California and provide for a stay of execution of said judgments during said appeal and that it is necessary to file an undertaking on appeal and stay bond of about \$44,000.00 in the Dunbar case; of about \$21,000.00 in the Charves case and of about about \$11,000.00 in the Kobida case.

Maryland Casualty Company, applicant reports, has expressed a willingness to act as surety on said undertakings on appeal and stay bonds, provided that applicant deposit with it a \$22,500.00 certified check in the Dunbar case, a \$10,500.00 certified check in the Charves case, and a \$5,500.00 certified check in the Kobida case. To enable it to deposit these checks, applicant intends to borrow the respective amounts, if necessary, from a bank or banks, issue its 6 per cent demand note or notes and secure the payment of said note or notes by the deposit of \$77,000.00 of its general lien mortgage bonds.

In Decision No. 1604, dated June 23, 1914 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 1290), the commission authorized San Francisco-Oakland Terminal Railways to issue \$1,000,000.00 of general lien mortgage bonds as collateral security for an issue of notes in the sum of \$650,000.00. In Exhibit No. 1, applicant reports that on June 25, 1918, \$774,000.00 of said general lien mortgage bonds were pledged to secure the payment of \$508,089.64 of notes, \$160,000.00 of said bonds were in its treasury, while \$66,000.00 were in the hands of the Mercantile Trust Company of San Francisco, trustee.

The testimony shows that the general lien mortgage bonds which applicant desires to pledge will be deposited under a collateral pledge agreement or agreements, which will provide that only in the event that San Francisco-Oakland Terminal Railways shall fail to pay the note or notes which it intends to issue, and only after the bank or banks to whom such note or notes have been issued, shall have exercised the banker's lien on money on deposit to the credit of San Francisco-Oakland Terminal Railways, shall such portion of the general lien mortgage bonds, and only such portion, be offered for sale as may be necessary to pay the balance due on the note or notes, together with the

accrued interest thereon, and that upon the payment of the note or notes, together with interest, the bonds herein authorized to be pledged as collateral shall be returned to applicant.

Under the circumstances set forth in the petition herein and as explained at the hearing, I recommend that this application be granted and herewith submit the following form of order:

#### ORDER.

San Francisco-Oakland Terminal Railways having applied to the Railroad Commission for authority to pledge \$77,000.00 face value of its general lien mortgage bonds for the purposes set forth in the foregoing opinion, a public hearing having been held, and the Railroad Commission being of the opinion that this application, subject to the conditions herein contained, should be granted.

*It is hereby ordered* that San Francisco-Oakland Terminal Railways be and it is hereby granted authority to issue and pledge \$77,000.00 face value of its general lien mortgage bonds with a bank or banks as collateral security for the payment of a 6 per cent demand note or notes, the proceeds of said note or notes to be used in securing a \$22,500.00 certified check to be deposited with the Maryland Casualty Company or other surety company for the purpose of obtaining the surety company to act as surety on an undertaking on appeal and stay bond in the Dunbar case, referred to above; a \$10,500.00 certified check to be deposited with the Maryland Casualty Company or other surety company for the purpose of obtaining the surety company to act as surety on an undertaking on appeal and stay bond in the Charves case, referred to above; and a \$5,500.00 certified check to be deposited with the Maryland Casualty Company or other surety company for the purpose of obtaining the surety company to act as surety on an undertaking on appeal and stay bond in the Kobida case, referred to above.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The agreement or agreements under which the bonds herein authorized to be issued are pledged shall provide that only in the event that San Francisco-Oakland Terminal Railways shall fail to pay the note or notes issued for the purpose of obtaining the certified check or checks referred to herein, and only after the bank or banks to whom said notes have been issued, shall have exercised the banker's lien on money on deposit, shall such portion of the general lien mortgage bonds, and only such portion, be offered for sale as may be necessary to pay the balance due on said note or notes, together with the accrued interest thereon, and that upon the payment of the note or notes, together with interest, the bonds pledged as collateral shall be returned to applicant.



2. Upon the return to applicant of the bonds herein authorized to be pledged, they shall be issued only upon further order from this commission.

3. Applicant shall file with the Railroad Commission, within ten days after its execution, a copy of each and every agreement under which any of the bonds herein authorized to be pledged are deposited.

4. San Francisco-Oakland Terminal Railways shall keep separate, true and accurate accounts relative to the pledging of the bonds herein authorized, and on or before the twenty-fifth day of each month the company shall make verified reports to the commission relative to the pledging of said bonds in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted shall apply only to such bonds as shall have been pledged on or before December 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-seventh day of June, 1918.

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DECISION No. 5518.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY, GREAT WESTERN POWER COMPANY OF CALIFORNIA AND CITY ELECTRIC COMPANY FOR AN ORDER AUTHORIZING AN INCREASE OF RATES.

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Application No. 3460.

*Decided June 27, 1918.*

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**ELECTRIC RATES.**—Electric rates increased to meet emergency costs in accordance with principles discussed in Decision No. 5519.

*Chaffee E. Hall* and *Guy C. Earl*, for Great Western Power Company.  
*Charles P. Cutton*, for Pacific Gas and Electric Company.

*Purcell Rowe*, for Reclamation District No. 501.

*J. W. Stuckenbruck*, for various farmers known as Live Oak Club between Stockton and Lodi.

*Gavin McNab* and *Nat Schumlowitz*, for California Central Creameries.  
*Sapiro, Neylan & Ehrlich*, for California Federation of Farmers Co-Operative Marketing Association and the Associated Dairymen of California.

*Alfred T. Cluff*, for Charles W. Slack, Natomas Company of California and Yuba Consolidated Gold Fields.

*W. J. Weyand*, for Power Users in the Dixon Vicinity, Solano District.  
*Wilbur Walker*, Secretary for Merchants Exchange of Oakland.

*John Barry* and *James Hallett*, for certain individuals.

*D. C. Dinan*, for Stauffer Chemical Company and San Francisco Sulphur Company.

*H. F. Kolk*, for Hercules Powder Company.

*H. F. Harvey*, for Power Users in the Galt District.

*W. C. Housken*, for Power Users in the New Hope District.

*Charles Lamb*, for Reclamation District No. 348.

*Joseph E. Barry*, for Power Users of Santa Rosa.

*B. D. Marx Greenc*, for the Cities of Berkeley, Napa, Burlingame, Pittsburg, Antioch, San Rafael, San Leandro, Grass Valley, Woodland and the City Attorneys' Association of Northern California; for County of Santa Clara on behalf of its industrial irrigation consumers; City of Santa Rosa, Town of Livermore, F. E. Booth Company, Pacific Spring Bed Company, Pacific Guano and Fertilizer Company, Philadelphia Quartz Company, Pure Carbonic Company, San Francisco Sulphur Company, Faun Concentrator Company, Standard Nut Meat Company, Standard Soap Company, Solano Iron Works, Pacific Container Company, Peet Bros. Manufacturing Company and the City of San Jose.

*R. R. Waterbury*, for City of Oakland.

*W. H. Harvey*, for Standardized Cream Company.

*L. F. Leurey*, for Sperry Flour Company and California Hawaiian Sugar Refining Company.

*Norman A. Eisner*, for Leslie Salt Refining Company and United Motion Picture Industries of Northern California.

*Thomas H. Reed*, city manager, and *Earl Lamb*, city attorney, for the City of San Jose.

*F. H. Martell*, for California Mill Company.

*Archibald Yell*, for the City of Sacramento.

*Bishop & Bahler* and *R. T. Boyd*, for Oakland Chamber of Commerce.

*T. C. Judkins*, town attorney, for the Town of Emeryville.

*Chickering & Gregory* and *H. F. Jackson*, for Sierra and San Francisco Power Company.

*W. P. Hendry*, for Central Eureka Mining Company.

*Chickering & Gregory*, for Western States Gas and Electric Company.

*Daniel V. Marceau*, for City of Stockton.

*George Lull* and *John J. Dailey*, for City and County of San Francisco.

*Charles S. Wheeler* and *John F. Bowie*, for Universal Electric and Gas Company. (Case No. 840).

*E. A. Palm*, for Washington Improvement Club.

*J. V. Hart*, for County of Sacramento.

DEVLIN and EDGERTON, *Commissioners*.

**OPINION.**

This is an application on behalf of the Great Western Power Company, Great Western Power Company of California and City Electric Company for authority to increase electric rates. These three companies are physically inter-connected and are jointly operated from a commercial and financial standpoint, and in accordance with the request expressly set forth in the application, we shall regard all of said companies as an entity and hereafter refer to them as applicant.

Applicant alleges that the shortage of water power has necessitated an abnormal increase in the operation of its steam generating plants with a resulting increase in the consumption of fuel oil; and further that applicant's system requires funds for ordinary extensions and other additions and betterments, which applicant states should be derived from the earnings of said system; that both the prices of materials and wages have increased over an extended period and that there is a continually increasing demand for electric power from its system; that its net earnings have relatively decreased since the outbreak of the war; that as a result of the conditions set forth applicant will be unable to pay its obligations; that applicant's credit and service will be seriously impaired, and further, that the only remedy lies in an increase in rates heretofore paid by its consumers.

Various hearings were held on this application in connection with a similar application by Pacific Gas and Electric Company. During the hearings it was agreed between all parties that by reason of the emergency that exists at the present time, and owing to the delay which would attend a complete presentation and analysis of all the testimony for the purpose of establishing a rate of a permanent nature, that the commission should on the evidence before it and as expeditiously as conditions would permit, fix rates which are herein referred to as emergency rates, to be operative until a complete and thorough presentation and consideration by the commission of all of the evidence necessary to the establishment of permanent rates.

During the course of the proceedings it developed that the increased cost of operation affected other classes of consumers than those originally set forth in the application, and to this extent the original prayer of the applicant was amended so as to permit the commission to grant whatever relief it deemed proper, and to distribute the added burden of increased costs over any or all classes of consumers.

Treating this proceeding as one of emergency nature to the extent hereinbefore set forth and in order to effectuate the necessary relief, we feel that we should, for the purpose of this proceeding and order, assume the reasonableness of existing rate schedules, which in an ordi-

nary proceeding would be subject to an extensive investigation and submission of evidence. In so far as existing rates are concerned we shall, therefore, proceed under such assumption that in general the existing rate schedules distribute the charges in a fairly reasonable and proper manner between the several classes of consumers.

The factors contributing to the present emergency are set forth in our opinion in Decision No. 5519, Application No. 3459, of Pacific Gas and Electric Company. The evidence submitted by applicant shows that its operations have been influenced by many of these factors, but the extent to which the present emergency has affected applicant is very much less in proportion than the curtailment of Pacific Gas and Electric Company's earnings.

There are pending before this commission a number of other proceedings involving the electric rates of applicant, to wit:

Application No. 3358—For removal of deviations in territory outside of San Francisco.

Application No. 3359—For removal of deviations in San Francisco.

Case No. 840—San Francisco electric rates.

Case No. 931—Sacramento electric rates.

Case No. 1109—Rate for Pacific Electro Metals Company.

Case No. 1204—Oakland electric rates.

By stipulation all of these proceedings are consolidated herewith in so far as their subject matter affects the relief to be granted.

From the evidence, we conclude that applicant's sales of electricity during the year 1918 will be approximately 333,000,000 kilowatt hours. This is an increase of 10 per cent over and above the sales of energy for the year 1917 after deducting the energy delivered under the United Railroads' contract, which expired in October of that year.

Under the existing rates it appears that applicant will derive, from its sales of electricity and from other sources of income, revenue as follows:

Sales of electricity.....	\$3,770,789 00
Merchandising revenue .....	200 00
Sales of steam for heating.....	160,000 00
Minimum under Western Canal Company contract.....	150,000 00
Total .....	\$4,080,989 00

For the year 1918, applicant will be required to produce at its various hydroelectric and steam power plants approximately 455,000,000 kilowatt hours of electric energy, the major portion of which will come from the Big Bend hydroelectric plant on the Feather River. Applicant's engineers estimated the probable output of this power station, and submitted, in addition, records of stream flow of the Feather River

for an extended period in the past. After careful review of all the evidence on the water resources of applicant, we conclude that the 1918 output of the Big Bend plant will be approximately 363,000,000 kilowatt hours.

TABLE I.  
Great Western Power System Energy Sources.

	1917		Estimated, 1918	
	Kilowatt hours	Barrels of oil	Kilowatt hours	Barrels of oil
Hydro plants—				
Big Bend .....	426,421,000		363,000,000	
Butte Creek .....	6,438,000		7,000,000	
Total hydro .....	432,859,000		370,000,000	
Steam heating plants.....	6,976,000	148,470	8,900,000	145,000
Steam power plants.....	18,166,000	205,934	75,768,000	361,000
Purchasing energy .....	332,000		332,000	
Totals .....	458,333,000	354,404	455,000,000	506,000
Total sales .....	335,782,093		332,934,467	

This analysis shows a reduction of approximately 63,000,000 kilowatt hours of available hydroelectric energy with a corresponding increase in the production by steam power plants. It also takes into consideration the new Bush-street plant, which will operate in 1918, producing both steam heat and electricity, but which during 1917 was not used as a source of electrical energy. The increase in fuel consumption of 1918 over 1917 is approximately 150,000 barrels of oil, which is not in proportion to the outputs of steam plants because of the fact that during 1917 the steam power plants operated at very low efficiency as stand-by stations, whereas in 1918 they will operate under conditions more conducive to efficiency and economy.

Applicant is fortunate in the possession of contracts for fuel oil which do not expire until December 31, 1918, through which it is able to obtain a supply of at least 600,000 barrels per annum at 75 cents, 77½ cents and 87½ cents per barrel, the latter figure applying to the small steam heating plants to which deliveries are made in tank wagons. It is very evident, therefore, that the operating expenses of applicant will be affected by the price of oil only in so far as exists the necessity for increased production of energy in steam power plants. We do not overlook the fact, however, that when these contracts expire at the close of the present year, applicant will be required to pay more than double the present price of oil, and will suffer a corresponding increase of operating costs.

Table II following shows the revenue and operating expenses of the consolidated system for the year 1918. This is based upon the original figures of the company with some re-segregation of accounts, and otherwise modified in accordance with the evidence and testimony herein.

In this table we have materially modified the estimate of taxes for the year 1918 as proposed by the applicant. In computing the tax item of operating expenses, applicant has departed from the position originally assumed of treating its affairs as a single consolidated company. As the inter-company revenues and profits necessitate the payment of larger taxes, both to the State and to the Federal government than would be the case of a single utility, it seems inconsistent to include taxes paid on inter-company revenue and profit, and we have, therefore, endeavored to determine the tax accruals of 1918 business on the basis of a single corporation.

TABLE II.

## Great Western Power System Revenue, Expenses and Income—1918.

Operating revenue .....	\$4,080,989 00
Operating expenses:	
Production, excluding oil .....	\$280,000 00
Oil for steam heat and power plants .....	406,649 00
Transmission .....	81,500 00
Distribution .....	200,000 00
Commercial .....	195,000 00
General and miscellaneous .....	148,000 00
Taxes, accrued .....	297,733 00
Other expenses .....	80,500 00
Uncollectible accounts .....	20,000 00
Rents and miscellaneous .....	2,400 00
Total operating expense: .....	<u>\$1,711,782 00</u>
Net revenue from operations .....	\$2,369,207 00
Non-operating expense net .....	2,000 00
Total net revenue .....	<u>\$2,367,207 00</u>
Deductions:	
Interest on funded debt .....	\$1,568,000 00
Less interest on funded debt owned .....	1,000 00
Net interest deductions .....	<u>\$1,567,000 00</u>
Note interest .....	42,000 00
Amortization of debt discount and expense .....	68,000 00
Total deductions .....	<u>\$1,677,000 00</u>
Net income .....	<u>\$690,207 00</u>

On the basis of the figures deduced herein, the revised net income from operations, after the payment of all expenses, is \$2,369,207.00, which is \$123,777.00 less than was actually earned in 1917, and which reflects a reduction of only 5 per cent in the net income of 1918 over 1917. If from this figure of net revenue we deduct the interest on bonds and debentures outstanding, the interest on notes and other

charges, there remains a balance to surplus of \$690,207.00, which is \$165,568.00 less than the corresponding figure for the year 1917.

Applicant has not in the past set up, nor does it at the present time charge off, from income any reserve to care for the depreciation and replacement of its properties. Our figures above do not include any allowance for depreciation. In the absence of suitable figures of valuation of applicant's properties, it is difficult to state definitely a proper annual charge for depreciation, but from our general knowledge of the extent and character of applicant's properties, we believe that applicant should be required to set aside out of earnings the sum of \$360,000.00 per annum for this purpose.

Applicant made no showing as to values of property. It indicated, however, that a valuation was being prepared and was to be subsequently filed.

Applicant is in competition with Pacific Gas and Electric Company as to probably 90 per cent of the business served. Under such conditions as at present exist, it is obvious that applicant's rates should be as nearly as possible the same as those of Pacific Gas and Electric Company. We deem it proper, therefore, to increase the rates charged by applicant to the same degree that we have modified the electric rates of the Pacific Gas and Electric Company in Decision No. 5519, Application No. 3459, excepting, however, certain classes of service; to wit: municipal street lighting, electric railways and other electric corporations, the rates for which are in all cases fixed by contracts outside of the scope of regular filed schedules. If the municipal street lighting consumers, electric railways and other corporations continue to pay only existing rates, no competitive advantages or disadvantages will result.

In Decision No. 5519, Application No. 3459, we have discussed at some length the existence of so-called deviations from filed rate schedules of the Pacific Gas and Electric Company. A large number of applicant's consumers herein are likewise paying other than schedule rates for service to which filed schedules apply. To this extent a similar discrimination exists between these consumers and the large bulk of consumers who pay under schedule rates. Applicant has requested removal of certain of these deviations. The occasion is at hand for such removal and we deem it proper at this time that all deviations be now removed.

We realize that in removing deviations some users of electricity will have their burdens materially increased. We can not at this time anticipate the results of this action upon individual consumers and must consider them as in a class who are in general enjoying a privilege which discriminates as between them and other consumers.

The commission, may, if it deems advisable hereafter, order the filing of new rate schedules for certain classes of service if the carrying out of this order demonstrates the need of such action. This will result in but two classes of rates applicable to the consumers of these companies:

First: Filed schedule rates.

Second: Special contract rates in which the character of service places them beyond the scope of the regularly filed rate schedules.

The small number of consumers which fall under the second class pay rates outside the scope of the regular filed schedules which, in general, are lower than the rates of such filed schedules because of the peculiar conditions incidental to the service of these consumers, such as favorable load factor, large consumption and other factors. These consumers are not considered as deviations, and will be subject only to such general increase as may be hereinafter ordered, except, however, that we will insist that conditions of discrimination which may exist between consumers of this class shall be removed, subject to determination by the commission.

Applicant has submitted figures showing the extent to which its present revenues are reduced by reason of the existence of deviation rates. From a review of this data, we conclude that the removal of so-called deviations will increase revenue of applicant by approximately \$200,000.00 per annum.

In addition to this increase in revenue applicant will derive from the surcharges set forth in the order herein \$680,000.00 additional revenue as follows:

Class of service	K.w.h. sales	Surcharge	Additional revenue
Commercial lighting -----	35,000,000	1 cent	\$350,000.00
Commercial power -----	165,000,000	2 mills	330,000.00
Totals -----	200,000,000	-----	\$680,000.00

Considering all sources of additional revenue above mentioned, applicant will obtain approximately \$880,000.00 per annum in excess of the revenue under existing rates. This, after the deduction of such taxes, both state and federal, as shall be paid on the added income will result in sufficient earnings to absorb all increased costs due to the emergency and to provide, in addition, sufficient for the establishment of depreciation and other reserves not heretofore set up.

Protestants have made the plea that if rates are to be raised in this instance, the revenue to be collected in excess of that obtained from existing rates should be impounded or its disbursement limited, and held subject to a final determination of reasonable rates for applicant's electric service. However, it was stipulated in the hearings by all



parties to the proceedings that if it be determined by the commission at some later date in connection with the final determination of just and reasonable rates, that the increase herein granted in this order is unduly high, that the excess above the return hereafter determined to be reasonable, be returned in such manner as the commission may determine. We believe, however, that applicant should use moneys received from the increases herein authorized only as this commission may from time to time direct until such time as, from complete evidence and investigation, this commission shall have ordered otherwise.

We submit the following form of order:

#### ORDER.

Great Western Power Company, Great Western Power Company of California and City Electric Company having applied to this commission for authority to increase electric rates, hearings having been held, the matter being submitted in so far as the present emergency feature is concerned, and now ready for decision, the Railroad Commission of the state of California hereby finds as a fact that the payment of rates by certain consumers lower than the filed scheduled rates where such filed schedule rates apply to their class of service constitutes a discrimination against other consumers purchasing energy under filed schedule rates; that the earnings of these companies have been curtailed by reason of the present emergency conditions; that the existing rates of applicant should be modified by the addition of the surcharges hereinafter set forth; and that the earnings of applicant thus increased by the addition of said surcharges will adequately compensate it for increased operating expenses and will further provide it with sufficient earnings to establish and maintain a depreciation reserve and other reserves.

Basing its order on the foregoing findings of fact and other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that on and after the tenth day of July, 1918, the Great Western Power Company, Great Western Power Company of California and City Electric Company shall charge and collect for electric energy sold only by the schedule rates now on file with the Railroad Commission of the state of California, except for energy sold under special contracts to which no filed schedule rates apply, and except for energy sold to those classes of consumers to whom applicant may grant free or reduced rates as set forth in section No. 5 of General Order No. 45 of this commission.

*It is hereby further ordered* that Great Western Power Company, Great Western Power Company of California, and City Electric Company be and are hereby authorized to charge and collect for electric energy sold in addition to the rates and charges established in the preceding paragraph of this order the following surcharges applicable to the classes of service and in the amounts, respectively, set forth, to wit:

For energy sold for lighting service, except municipal street lighting .....	1 cent per k. w. h.
For energy sold for power service, including heating and cooking, except for energy sold to electric railways and other electric corporations.....	2 mills per k. w. h.

Provided

I. That Great Western Power Company, Great Western Power Company of California and City Electric Company shall, within ten days of the date of this order, file with the Railroad Commission of the state of California, a statement showing rates to which each of the surcharges hereinbefore authorized shall apply, which statement shall constitute an amendment to existing rate schedules on file.

II. That this order shall not prevent the Great Western Power Company, Great Western Power Company of California and City Electric Company from hereafter filing new rate schedules subject to the approval of the Railroad Commission of the state of California if such new schedules shall not conflict with the purpose and intent of the provisions of this order.

III. That Great Western Power Company, Great Western Power Company of California and City Electric Company shall designate separately on bills rendered their consumers for electric energy the amounts due them under authorized surcharges.

And provided further that—

I. Great Western Power Company, Great Western Power Company of California and City Electric Company, and affiliated corporations comprising the Great Western Power Company System, shall, within ten days of the date of this order, file with the commission a stipulation to the effect that they will set up out of earnings a depreciation reserve in the amount of not less than \$30,000.00 per month, beginning with the month of July, 1918, and for each month thereafter, until otherwise ordered by this commission, said depreciation reserve to be apportioned among the above corporations and to be used by them in a manner to be subsequently approved by this commission.

II. That Great Western Power Company, Great Western Power Company of California, City Electric Company, and affiliated corporations comprising the Great Western Power System, shall, within ten days of the date of this order, file with this commission a stipulation to the effect that they will set aside out of the earnings such other reserves as the commission may deem necessary from time to time.

*It is hereby further ordered* that Great Western Power Company, Great Western Power Company of California and City Electric Company are hereby directed to file with the commission within 90 days of the date of this order a complete inventory and valuation of all properties severally and individually owned and operated, and in the

event of failure so to do, this commission will give consideration to a modification of this order.

*It is hereby further ordered* (1) That Great Western Power Company, Great Western Power Company of California and City Electric Company file with the commission, on or before the twentieth day of each month, a statement covering their capital expenditures, revenues and expenses for the preceding month and for the period beginning January 1, 1918, and such other information as the commission may hereafter designate.

(2) That Great Western Power Company, Great Western Power Company of California and City Electric Company shall file with this commission within thirty days of the date of this order, and on the first day of each and every month thereafter, a statement of consumers receiving electric service at other than filed schedule rates, together with such other information as this commission shall hereafter designate.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-seventh day of June, 1918.

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DECISION No. 5519.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO INCREASE ITS RATES AND CHARGES FOR ELECTRIC ENERGY.

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Application No. 3459.

*Decided June 27, 1918.*

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**ELECTRIC RATES -EMERGENCY INCREASE—DEVIATIONS.—**(1) Increased electric rates are established as an emergency measure to care for (a) increase in labor costs; (b) serious water shortage which makes necessary the production of electric energy by steam power; (c) increase in the cost of oil; (d) decrease in income due to daylight saving act, and (e) necessary to maintain the financial status of the utility; these emergency rates to be operative pending a complete investigation and the establishment of permanent rates, any excessive return due to the emergency rates to be later refunded under the direction of the commission.

(2) Special deviations lower than the scheduled rates should be removed and the resulting discrimination avoided and all consumers placed on an equal schedule basis except in the cases specified in General Order No. 45.

*Charles P. Cullen*, for Pacific Gas and Electric Company.

*Chaffee E. Hall and Guy C. Earl*, for Great Western Power Company.

- Harrison S. Robinson*, for Bethlehem Shipbuilding Corporation, Ltd., and Union Iron Works Company.
- Clarence M. Oddie*, for Linde Air Products Company—Pacific Coast.
- Paymaster F. P. Farquhar*, for United States Navy Cost Inspection Board, Bethlehem Shipbuilding Corporation, Ltd., Union Plant.
- Purell Rowe*, for Reclamation District No. 501.
- J. W. Stuckenbruck*, for various farmers, known as Live Oak Club, between Stockton and Lodi.
- Sapiro, Neylan & Ehrlich*, for California Federation of Farmers Co-Operative Marketing Association and the Associated Dairymen of California.
- Alfred T. Cluff*, for Charles W. Slack, Natomas Company of California and Yuba Consolidated Gold Fields.
- Robert G. Williams*, for Williams Bros.
- W. J. Weyand*, for Power Users in the Dixon vicinity, Solano District.
- F. McCutchen*, for Standard Foundry Company, Inc.
- Wilbur Walker*, Secretary of Merchants Exchange of Oakland.
- John Barry* and *James Hallett*, for certain individuals.
- D. C. Dinan*, for Stauffer Chemical Company and San Francisco Sulphur Company.
- H. F. Kolb*, for Hercules Powder Company.
- F. H. Harvey*, for Power Users in the Galt District.
- W. C. Housken*, for Power Users in the New Hope District.
- Charles Lamb*, for Reclamation District No. 348.
- Charles E. Warren*, for Power Users of Cupertino.
- Heller, Powers & Ehrman*, for Patterson Water Company and Patterson Ranch Company.
- Joseph E. Barry*, for Power Users of Santa Rosa.
- B. D. Marx Greene*, for the cities of Berkeley, Napa, Burlingame, Pittsburg, Antioch, San Rafael, San Leandro, Grass Valley, Woodland, and the City Attorneys' Association of Northern California; for County of Santa Clara, on behalf of its industrial irrigation consumers; City of Santa Rosa, Town of Livermore, F. E. Booth Company, Pacific Spring Bed Company, Pacific Guano and Fertilizer Company, Philadelphia Quartz Company, Pure Carbonic Company, San Francisco Sulphur Company, Faun Concentrator Company, Standard Nut Meat Company, Standard Soap Company, Solano Iron Works, Pacific Container Company, Peet Bros. Manufacturing Company and the City of San Jose.
- R. R. Waterbury*, for City of Oakland.
- W. H. Harvey*, for Standardized Cream Company.
- L. F. Leurey*, for Sperry Flour Company and California Hawaiian Sugar Refining Company.

*Norman A. Eisner*, for Leslie Salt Refining Company and United Motion Picture Industries of Northern California.

*Thomas H. Reed*, city manager, and *Earl Lamb*, city attorney, for the City of San Jose.

*F. H. Martell*, for California Mill Company.

*Archibald Yell*, for the City of Sacramento.

*Saunborn & Rochl* and *Morrison, Dunne & Brobeck*, for Standard Portland Cement Corporation and Santa Cruz Portland Cement Company.

*Bishop & Bahler* and *R. T. Boyd*, for Oakland Chamber of Commerce.

*H. E. Havens*, for the Town of Belvedere.

*T. C. Judkins*, town attorney, for the Town of Emeryville.

*Alfred E. Clark*, for the Town of Lincoln.

*Chickering & Gregory* and *H. F. Jackson*, for Sierra and San Francisco Power Company.

*W. P. Hendry*, for Central Eureka Mining Company.

*J. W. Colberd* and *B. D. Marx Greenc*, for the City of South San Francisco.

*Daniel V. Marceau*, for the City of Stockton.

*John F. Davis*, for the City of Burlingame.

*George Lull* and *John J. Dailey*, for City and County of San Francisco.

*Archibald Yell* and *J. V. Hart*, for the City and County of Sacramento.

*Albert Mansfield*, for the City of Redwood City.

*Louis Oncal* and *William F. James*, for the City of Alviso, and other concerns in the vicinity of Santa Clara County.

*Albert Casper* and *Frank E. Powers*, for Vallejo Electric Light and Power Company.

*A. C. Lowell*, for the City of Auburn.

*Charles S. Wheeler* and *John F. Bowie*, for Universal Electric and Gas Company.

*E. H. Armstrong*, for Nevada County.

*E. A. Palm*, for Washington Improvement Club.

DEVLIN and EDGERTON, *Commissioners*.

#### OPINION.

This is an application by Pacific Gas and Electric Company for authority to increase its rates and charges for electric energy. Pacific Gas and Electric Company alleges in effect that, due to the increased cost of labor and materials used in the construction and operation of its properties, the increased cost of oil used in the production of electricity in its steam power plants, and the shortage of hydroelectric power, its earnings have decreased to a point where it will be unable to adequately perform its service to the public and meet its obligations.

The application sets forth in some detail the existing conditions as affecting the company's business, and prays for definite and immediate

relief in the form of a 20 per cent surcharge on all power and commercial lighting rates, except on rates for service to other electric utilities, to electric railroads and to governmental institutions.

Various hearings were held on this application in connection with a similar application by Great Western Power System companies. During the hearings it was agreed between all parties that by reason of the emergency that exists at the present time, and owing to the delay which would attend a complete presentation and analysis of all the testimony for the purpose of establishing a rate of a permanent nature, that the commission should on the evidence before it and as expeditiously as conditions would permit, fix rates which are herein referred to as emergency rates, to be operative until a complete and thorough presentation and consideration by the commission of all the evidence necessary to the establishment of permanent rates.

During the course of the proceedings it developed that the increased cost of operation affected other classes of consumers than those originally set forth in the application, and to this extent the original prayer of the company was amended so as to permit the commission to grant whatever relief it deemed proper, and to distribute the added burden of increased costs over any or all classes of consumers.

Treating this proceeding as one of emergency nature to the extent hereinbefore set forth, and in order to effectuate the necessary relief, we feel that we should, for the purpose of this proceeding and order, assume the reasonableness of existing rate schedules, which in an ordinary proceeding, would be subject to an extensive investigation and submission of evidence. In so far as existing rates are concerned, we shall therefore proceed under such assumption that in general the existing rate schedules distribute the charges in a fairly reasonable and proper manner between the several classes of consumers.

The factors contributing to the present emergency may be enumerated as follows:

1. A general increase in all operating expenses due to the rising price of materials and the necessity for increasing wages paid to employees, both to meet the increased cost of living and to meet the higher wages paid in competitive industries.
2. A period of water shortage resulting in a material reduction in the output of hydroelectric power plants and the consequent necessity for a greater production of electric energy by steam power.
3. Increases in the cost of oil used in steam power plant operation which would in itself increase the cost of power during a normal year, but which in a year of reduced hydroelectric supply further adds to the cost of operation on account of the greater use of oil.
4. A curtailment in the use of electric energy for lighting purposes and a corresponding reduction of the company's income from this source as a result of the so-called "Daylight Saving Act."

5. The necessity for the maintenance of the financial status of public utilities during the war period in order that they obtain the funds necessary to continued expansion of facilities.

It will not be necessary to repeat at this time our position in the matter of safeguarding California utilities during the war emergency. We have set forth our views in this connection in Decision No. 5439, Application No. 3248, in which the commission authorized an increase in the gas rates of this company. The company's showing as to the necessity for increased revenue is on the whole conclusive. The margin of earnings during the last eighteen months has been continually reduced, so that, unless relief is granted, the company will be seriously embarrassed in its finances and consequently in its service to the public.

When the matter was submitted on March 15, 1918, the price of oil had risen from 68½ cents to \$1.35 per barrel. Another increase in the price of oil, effective June 1, 1918, which made the base price of oil at San Francisco \$1.62 per barrel, took place on May 1, 1918. The "Daylight Saving Act" went into effect on March 31, 1918. The company filed supplementary evidence as to the effect of both daylight saving and the last increase in oil price upon the company's revenue and expense. These, in accordance with stipulations made at the hearings, together with the original evidence, have been carefully reviewed and will be considered herein as bearing upon the emergency phase of the situation.

There are pending before this commission a number of other proceedings involving the electric rates of the Pacific Gas and Electric Company, to wit:

Application No. 3311—For removal of deviations in Alameda County District.

Application No. 3380—For removal of deviations in other districts.

Application No. 3381—For increase in agricultural power rates.

Application No. 3442—For changes of electric schedules—San Jose District.

Case No. 840—San Francisco electric rates.

Case No. 930—Sacramento electric rates.

Case No. 996—Grass Valley electric rates.

Case No. 1155—Berkeley electric rates.

Case No. 1173—Pittsburg electric rates.

Case No. 1203—Oakland electric rates.

By stipulation, all of these proceedings are herewith consolidated in so far as their subject matter affects the relief to be granted.

The complaint of the city of San Francisco in Case No. 840 above, involves the three companies operating in San Francisco; *i. e.*, the Pacific Gas and Electric Company, the City Electric Company and the Universal Electric and Gas Company, all of which are in active com-

petition. The Universal company entered its appearance when Case No. 840 was included in the scope of this proceeding, and immediately protested against having the commission take any action at this time that would affect its rates. Nothing can be accomplished at present by intervening the Universal company into the emergency phase of this proceeding and we do not wish to delay the granting of necessary relief by so doing. We will not, therefore, entertain at this time the motion of counsel to this effect, but will leave for a subsequent date the issues thus raised. We shall expect, however, that the rate increases hereinafter authorized shall be charged by Pacific Gas and Electric Company to all consumers, including consumers in a competitive territory, without discrimination. The Pacific Gas and Electric Company entered into this proceeding with a full knowledge of the effect of possible rate increases in competitive territory, to which the Universal company might not be subject.

The extent of the company's electric business is set forth in Table I herewith, which shows for the years 1915, 1916 and 1917 the sales of energy in kilowatt hours, and the revenue to be obtained therefrom, together with estimates of 1918 sales and revenue under existing rates, with and without the effect of the "Daylight Saving Act." The company presented evidence, segregating the estimated sales of energy and revenue to be derived under existing rates from each class of service in its electric department for the year 1918.

**TABLE I.**  
**Pacific Gas and Electric Company Electrical Department. Sales and Revenue**  
**Under Existing Rates.**

Year	Sales in k.w.h.	Gross revenue
1915 (excluding Panama-Pacific International Exposition) -----	474,858,993	\$9,633,328 00
1916 (excluding Panama-Pacific International Exposition) -----	519,339,113	10,092,983 00
1917 -----	584,225,935	10,859,785 00
1918 estimate—		
Without daylight saving -----	612,648,529	11,615,741 00
With daylight saving -----	636,873,529	11,290,741 00

Table II herewith shows the estimated sales and revenue under existing rates for the year 1918, segregated according to classes of service, which does not include, however, the energy used by the gas, railway and water departments of the company. This inter-company use of electricity approximates 21,000,000 kilowatt hours per annum and the revenue thus properly due the electric department of the company from the other departments is approximately \$210,000.00 per annum. In considering the electric department as an entity, we shall, therefore,



include both the energy used by, and the revenue due from the other departments of the company.

The company's figures of available electric energy for the year 1918 were made up in January and February of this year, at which time the power situation appeared very critical. As the hearings progressed, rainfall and snowfall conditions improved. However, we are of the opinion that, owing to the many variable factors, the upward trend of costs and the possibility of shortage of purchased power and probable necessity of discontinuance or curtailment of service, that the original estimate should be accepted with the modifications hereafter noted.

TABLE II.  
Pacific Gas and Electric Company Estimated Electric Sales and Revenue Under Existing Rates.

	Sales in k.w.h.	Gross revenue
Lighting—		
Residence .....	37,650,000	\$2,635,500 00
Commercial .....	51,000,000	2,040,000 00
Totals .....	88,650,000	\$4,675,500 00
Less daylight saving.....	5,775,000	325,000 00
Total lighting .....	82,875,000	\$4,350,500 00
Power—		
Agricultural .....	62,910,000	\$1,007,040 00
Mining .....	100,000,000	810,000 00
Manufacturing .....	196,233,529	2,351,803 00
Commercial and miscellaneous.....	45,500,000	659,750 00
Temporary .....	75,000	1,613 00
Total power .....	404,718,529	\$4,833,206 00
Total light and power.....	487,623,529	\$9,183,706 00
State, county and municipal light and power.....	21,250,000	\$864,875 00
Electric railway .....	90,000,000	910,800 00
Other electric utilities.....	38,000,000	331,360 00
Totals .....	119,250,000	\$2,107,035 00
Grand totals .....	636,873,529	\$11,290,741 00

Table III shows the energy requirements of the company for the year 1917 and estimates for the year 1918. This shows an increase in sales for the year 1918 over 1917 of approximately 50,000,000 kilowatt hours after deducting the loss due to "daylight saving." It further shows an increase of 76,000,000 kilowatt hours in the total energy required at the sources, which increase can only be supplied by an enlarged production of energy in steam power plants. The estimate shows reduction in the hydroelectric and purchased energy of 42,000,000 kilowatt hours and an increase in steam generated energy of 117,700,000 kilowatt hours.

TABLE III.

## Pacific Gas and Electric Company Energy Requirements—Electric Department.

	Actual 1917 k.w.h.	Company's estimate, 1918 k.w.h.	Revised estimate, 1918 k.w.h.
Energy required at sources.....	854,099,030	939,508,933	929,742,300
Energy generated—hydro .....	478,472,679	617,008,933	617,000,000
Energy purchased .....	180,593,371		
Energy generated—steam .....	195,032,980	322,500,000	312,742,300
<b>Totals</b> .....	<b>854,099,030</b>	<b>939,508,933</b>	<b>929,742,300</b>

To produce the energy required in steam power plants will necessitate the consumption of 1,454,610 barrels of oil, which, if purchased at the \$1.62 base price, will amount to an expense for oil alone of \$2,360,068.00. This represents an increase in oil use over 1917 of 509,000 barrels, which, under the existing price of oil, would result in an increase of \$824,580.00 per year. The enormous increase in oil consumption is due partly to the increase in business and partly to the shortage of water power. In this connection, it may be pointed out that of the total consumption of oil about 300,000 barrels, costing \$486,000.00, is due to the shortage of water power below the normal average. The increase of oil from a 68½ cent basis to a \$1.62 basis has increased the operating expense of the electric department alone by \$1,360,069.00.

From the evidence herein we have estimated the revenue under existing rates, the expenses of the electric department and return to the company, as shown in Table IV. In this table we have credited the electric department with the revenue from all sources and have charged against this maintenance and operating expenses, depreciation, taxes and reserves, and find that under existing conditions the business of the electric department will show less than a 6 per cent return upon the invested capital.

It is true that in this instance we have no complete valuation of the electric properties of the company, but in this and in many past proceedings before the commission affecting both rates and securities, we have sufficient to deduce what may be termed a reasonable rate base. For the purpose of this proceeding alone we are, therefore, accepting as an approximate value of the electric department properties of the company, including a pro rata of the property of other departments used, which is based on the amount set forth in the commission's Exhibit No. 1, the sum of \$59,000,000.00. It must be borne in mind, however, that we are not at this time passing finally upon the fair value of the electric department properties of the company for rate fixing purposes.

TABLE IV.

**Pacific Gas and Electric Company. Electric Department, 1918. Revenue, Expense and Return Under Existing Rates and Present Oil Prices.**

## Revenue:

Operating revenue less loss due to daylight saving-----	\$11,290,741 00
Inter-company use of electric, gas, railway and water depts.---	210,000 00
Pole contract rentals-----	20,000 00
Total electric revenue-----	\$11,520,741 00

## Expenses:

Depreciation allowance -----	\$1,012,000 00
Maintenance -----	625,000 00
Operation -----	1,850,000 00
Oil -----	2,360,058 00
Purchased power -----	887,540 00
General administration expense-----	435,000 00
Fire and casualty insurance reserves-----	52,000 00
Uncollectible accounts -----	72,000 00
Taxes -----	761,430 00
Total expenses -----	\$8,055,038 00

Net revenue from the electric department----- \$3,465,703 00

It is evident from the preceding analysis and discussion that the revenue under existing electric rates is entirely inadequate, and that relief should be granted for increases in operating costs if satisfactory service to the public is to be maintained and the financial status of the company is to be protected.

Many consumers of the company are enjoying electric service under rates lower than the schedules on file with the commission. This is partly a result of competitive conditions in San Francisco, Oakland and Sacramento, and also due to the fact that many contracts, entered into before the effective date of the Public Utilities Act, were made at rates lower than filed schedule rates and have continued in force. It may be well to point out at this time that the charges paid by consumers for electric energy are based upon three classes of rates:

1. Schedule rates on file with the commission.
2. Special rates fixed by contracts for service to which filed schedules also apply. These are known as "deviations."
3. Rates fixed by contracts for service, the character of which places them beyond the scope of the regular rate schedules.

The larger proportion of electric consumers of this company are served under schedule rates.

Referring to Class No. 2, the company has applied in several instances for an order of the commission placing consumers enjoying deviation rates under contracts which have expired, on regular rate schedules applicable to the class of service these consumers take, so that it is clearly recognized by the utility that it is discriminatory to continue such deviations. The applications on file for such removal, however,

include only a small proportion of consumers who pay these favorable rates.

Evidence has been submitted showing the extent to which the company's revenue suffers by reason of these lower rates. An analysis of the figures submitted shows that if consumers enjoying deviation rates were placed on the regular rate schedules that apply to their class of service, the revenue of the company would be increased approximately \$200,000.00 per annum.

The elimination of these deviations will wipe out a serious form of discrimination which unquestionably should be eradicated before the great bulk of consumers are required to pay increased rates.

It is our opinion, therefore, that, before any surcharges or other increases be placed upon existing rates, all consumers enjoying reduced rates for service where such rate is lower than the filed schedule rate for such service should be now removed from their special status and be placed forthwith in the same category as other consumers who are being charged in accordance with filed rate schedules. This applies not only to consumers to whom specific reference is directed in applications No. 3311, No. 3380 and No. 3442, but to all consumers enjoying deviation rates, except those classes of consumers where applicant may grant free or reduced rates as previously authorized by the commission, and as set forth in section No. 5 of General Order No. 45 of this commission.

We realize that in removing deviations some users of electricity will have their burdens materially increased. We can not at this time anticipate the results of this action upon individual consumers and must consider them as in a class who are in general enjoying a privilege which discriminates as between them and other consumers.

The commission may, if it deems advisable hereafter, order the filing of new rate schedules for certain classes of service if the carrying out of this order demonstrates the need of such action.

The small number of consumers which falls under Class No. 3 above, pay rates outside the scope of the regular filed schedules which, in general, are lower than the rates of such filed schedules because of the peculiar conditions incidental to the service of these consumers, such as favorable load factor, large consumption and other factors. These consumers are not considered as deviations, and will be subject only to such general increase as may be hereinafter ordered, except, however, that we will insist that conditions of discrimination which may exist between consumers of this class shall be removed, subject to determination by the commission.

The sum of \$200,000.00 per annum above mentioned is the approximate amount by which the revenue of the company will be increased by the removal of deviations throughout its system. This in itself is insufficient to provide the company with its needed additional revenue

under present conditions. We must, therefore, look to a general increase in all rates of such a character as will most equitably absorb the added burden of costs.

The increases in the cost of service are largely of such a character as to be reflected in an increase in the cost of energy sold to consumers. The so-called fixed charges have been increased, it is true, but such have been absorbed to a large extent in the increase of business generally. We, therefore, deem it proper to assess all of the increased costs at this time in proportion to the energy consumed by various classes of users, both lighting and power. In addition, the curtailment of the use of electricity in lighting as a result of the "Daylight Saving Act" will in itself necessitate a higher unit cost for the reduced amount of energy now used in lighting service. We believe that the rates of lighting consumers should be increased to a greater extent than should the rates of power consumers.

Applicant's original request was that rates for commercial and industrial service only should be increased. As previously stated, the request was modified to extent that the commission grant such increases as it deemed proper. Since the application was filed conditions have materially changed, resulting in increased costs not anticipated and further increases in revenue are found necessary.

We deem it proper, under the conditions, that all classes of service should bear a portion of the increased costs, and recommend that applicant be authorized to charge and collect the surcharges set forth in the order herein, in addition to the rates and charges now in effect except where such rates and charges are hereinafter modified. The surcharges are to be in addition to the rates now charged for all classes of service, either in the form of rate schedules applicable to consumers in general, or in the form of rates provided for by contract, where the conditions of service are such that no filed schedule applies. The surcharge is to be added to the minimum charge, where under the existing rates, the bill is less than the minimum.

It is our intention that a consumer now enjoying the deviation rate shall first be placed upon a regular rate schedule and shall then pay for service, in addition to the rate set forth in such schedule, the surcharge applicable to this class of service.

Table V herewith shows the effect upon the electric revenue of the company of the proposed surcharges and of the removal of deviations. These figures, of course, represent averages based upon the segregation of consumers and do not, in any sense, reflect the effect of surcharges upon individual consumers. This is largely a question of the particular schedule or contract in accordance with which the individual consumer's bill is determined.

TABLE V

Pacific Gas and Electric Company. Effect of Proposed Surcharges on Electric Rates.

Class	Estimated k.w.h. sales	Revenue without surcharge	Proposed sur- charges per k.w.h.	Increase in revenue	Per cent increase in revenue
Lighting* -----	82,875,000	\$1,350,500	\$0.01	\$828,750	19
Power—					
Agricultural -----	62,940,000	1,007,640	.002	125,880	12.50
Manufacturing -----	196,233,529	2,351,803	.002	392,467	16.70
Commercial -----	45,500,000	679,750	.002	91,000	13.80
Mining -----	100,000,000	\$10,000	.002	200,000	24.70
Temporary -----	75,000	1,613	.002	150	9.30
Total power -----	404,748,529	\$4,833,206		\$809,479	16.7
State, county and municipal light and power -----	21,250,000	\$861,875	.10	\$86,875	10
Electric railway -----	90,000,000	910,800	.001	90,000	9.98
Other electric corporations -----	38,000,000	331,360	.001	38,000	11.5
Totals -----	149,250,000	\$2,107,035		\$211,875	
Increase by removal of devia- tions—					
Light and power -----				200,000	
Total additional revenue ..	636,873,529	\$11,290,741		\$2,053,122	18.2

\*Corrected for daylight saving.

Our attempt herein has been to place the electric department of the company on such a basis that it will earn a compensatory return. It must be borne in mind, however, that the figures of increased revenue, which we have shown above, will, in all probability, not be fully attained for the reason that consumers, where possible, will endeavor to materially reduce their consumption and bills and further reduction will, in all probability, be required to conserve power and fuel. It is difficult to estimate to what extent the curtailment in the use of electricity will occur, but we have given this consideration.

The electric department of the Pacific Gas and Electric Company is the source of more than one-half of its gross revenue. A large portion of the remainder comes from the sales of gas and the balance from the company's operations in connection with the supply of water for irrigation and domestic use, from the operation of a street railway system in the city of Sacramento, from the sales of steam for heating in San Francisco and Oakland, and from certain non-public utility operations. The water and railway departments have never been in any sense as profitable as the gas and electric departments, and the steam sales department has, from its inception, been conducted with an actual operating deficit. It is doubtful whether the rates for water and railway service can be increased to such an extent as to result in earnings commensurate with those of the gas and electric departments. The

steam sales department of the company is not included in the scope of our jurisdiction over public utilities. We do not hesitate, however, to point out that the increase in the cost of oil has affected the operations of the steam sales department to perhaps a greater extent than the expenses of any other department, for the evident reasons that oil fuel is the exclusive source of heating used in this service, and we suggest that the Pacific Gas and Electric Company modify its rates for steam heating service so as to compensate, in part, at least, for the increased cost of fuel oil used.

In Decision No. 5439, Application No. 3248, and Decision No. 5445, Application No. 3742, and Decision No. 5440, Application No. 3300, we have already authorized the Pacific Gas and Electric Company to increase its gas rates in all territory served. Taking into consideration the additional revenue to be obtained from these increases in gas rates, and the additional revenue to be obtained from the surcharges upon electric rates herein proposed, Table VI following shows the revenue, expenses and net income from the entire company's operations.

TABLE VI.

**Pacific Gas and Electric Company—Results of One Year's Operations Under Increased Gas and Electric Rates.**

<b>Gross revenue:</b>		
Electric, under existing rates.....	\$11,290,741 00	
Increases herein granted.....	2,053,122 00	
Total electric revenue.....		\$13,343,863 00
Gas, under existing rates.....	\$7,955,203 00	
Increases heretofore granted.....	1,012,470 00	
Total gas revenue.....		8,967,673 00
<b>Other departments' revenue:</b>		
Water collection.....	\$280,000 00	
Water pumping.....	214,666 00	
Railway.....	540,000 00	
Steam sales.....	225,000 00	
Total other departments' revenue.....		1,259,666 00
Total operating revenue.....		\$23,571,202 00
Non-operating revenue—net.....		275,000 00
Total revenue from all sources.....		\$23,846,202 00
<b>Operating expenses—all departments:</b>		
Maintenance.....	\$1,260,500 00	
Operation.....	4,019,000 00	
Oil.....	5,736,581 00	
Purchased energy (electric).....	887,540 00	
General administration expense.....	725,000 00	
Fire and casualty insurance reserves.....	120,000 00	
Uncollectible accounts.....	120,000 00	
Depreciation reserve.....	1,700,000 00	
Taxes.....	1,561,926 00	
Total expenses.....		\$16,130,547 00
Net income.....		\$7,715,655 00

Add difference between our estimated depreciation	\$1,700,000 00	
And amount actually appropriated	1,250,000 00	
		<u>450,000 00</u>
Actual cash net		\$8,165,655 00
Deductions from net income:		
Bond interest	\$4,200,000 00	
Note interest	100,000 00	
	<u>\$4,300,000 00</u>	
Less interest on bonds held in sinking fund	225,000 00	
	<u>\$4,075,000 00</u>	
Amortization of debt, discount and expense	200,000 00	
Reserve ordered by commission	1,000,000 00	
	<u>1,000,000 00</u>	
Total deductions		\$5,275,000 00
Available for preferred stock dividends		<u>2,890,655 00</u>
Dividends on preferred stock		1,500,000 00
		<u>1,390,655 00</u>
Balance to surplus		\$1,390,655 00

In making up this statement, we have carefully reviewed the expenses and revenue of all departments as set forth in the company's exhibit, and have made certain modifications and corrections to the company's original figures, among which may be pointed out the inclusion of \$275,000.00 of nonoperating revenue, which was inadvertently omitted by the company in its original statement. We have further increased the depreciation allowance of \$1,250,000.00 now appropriated for the company's entire properties to a figure of \$1,700,000.00 which we believe to be a more reasonable figure for depreciation annuity upon the operative properties of the company. We urge that the company increase its annual depreciation charge to this extent. This table shows, with the increased gas rates heretofore granted, and the proposed increases in electric rates herein, with oil at the \$1.62 base price, and the business and expenses as it seems logical to assume will occur during the coming year, the company will have earned a net income of \$8,165,655.00 over and above all operating expenses including depreciation as charged off, taxes, etc., and in addition will have sufficient net income to pay all fixed charges including bond interest and discount, note interest, the \$1,000,000.00 to be annually appropriated from income to special reserve, as ordered by this commission in its Decision No. 3484, Application No. 2056, and will further be able to carry a balance to surplus of about \$1,390,655.00 after the payment of preferred stock dividends. This is about \$700,000.00 greater than the surplus earned for the year 1917, but approximates \$500,000.00 less than that earned during the year 1916 before increased costs affected the company's operations.

In so far as the current year is concerned, the company will receive at least one-half of the increased revenue from the new gas rates and



the electric rates herein proposed. The last increase in oil prices was not effective until the first of June, so that the increased revenues will begin to accrue shortly after the last increase in oil, and the close of the year's operations for 1918 will show the company as having earned a fairly substantial surplus, which will not be as large, however, as in previous years.

Protestants have made the plea that if rates are to be raised in this instance, the revenue to be collected in excess of that obtained from existing rates should be impounded or its disbursement limited, and held subject to a final determination of reasonable rates for applicant's electric service. The evidence herein is conclusive of the fact that additional revenue is vitally necessary for the continued conduct of applicant's electric business. To impound the moneys obtained from these rate increases and thereby prevent the company from carrying out its obligations, would entirely defeat the purposes of the relief, and we are not in accord with this proposal. However, it was stipulated in the hearings by all parties to the proceedings that if it be determined by the commission at some later date in connection with the final determination of just and reasonable rates, that the increases herein granted in this order is unduly high, that the excess above the return in the electric department hereafter determined to be reasonable, be returned in such manner as the commission may determine.

We herewith submit the following form of order:

#### ORDER.

The Pacific Gas and Electric Company, having applied to this commission for authority to increase its electric rates, hearings having been held, the matter being submitted in so far as hereinbefore set forth, and being now ready for decision, the Railroad Commission of the state of California hereby finds as a fact that the payment of rates by certain consumers other than filed schedule rates, where such filed schedules apply to their particular class of service, constitutes a discrimination against other consumers purchasing energy under filed schedule rates; that the existing rates for electricity are insufficient to provide the Pacific Gas and Electric Company with an adequate return; that the existing rates should be increased by the surcharges hereinafter set forth.

Basing its order upon the foregoing findings of fact and the other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that on and after the tenth day of July, 1918, Pacific Gas and Electric Company shall charge and collect for electric energy sold, only the schedule rates now on file with the Railroad Commission of the state of California, except for energy sold under special contracts to which no filed schedule of rates applies, and except for

energy sold to those classes of consumers to whom applicant may grant free or reduced rates as set forth in section No. 5 of General Order No. 45 of this commission.

*It is hereby further ordered* that Pacific Gas and Electric Company be and is hereby authorized to charge and collect for electric energy sold, in addition to the rates and charges established in the preceding paragraph of this order, the following surcharges applicable to the classes of service and in the amounts respectively set forth, to wit:

For energy sold for lighting service, including domestic, commercial and municipal metered service.....	1 cent per k. w. h.
For energy sold for power service, including heating and cooking .....	2 mills per k. w. h.
For energy sold for municipal street lighting.....	10% of monthly bills
For energy sold to electric railways.....	1 mill per k. w. h.
For energy sold to other electric corporations.....	1 mill per k. w. h.

Provided Pacific Gas and Electric Company shall, within ten days of the date of this order, file with the Railroad Commission of the state of California a statement showing the rates to which each of the surcharges hereinbefore authorized shall apply, which statement shall constitute an amendment to existing rate schedules on file, and that the Pacific Gas and Electric Company shall designate separately on the bills rendered its consumers for electric energy the amount due it under the authorized surcharges, and further provided that this order shall not prevent Pacific Gas and Electric Company from hereafter filing new rate schedules subject to the approval of the commission, if such new schedules shall not conflict with the purpose and intent of the provisions of this order.

*It is hereby further ordered* that Pacific Gas and Electric Company shall file with this commission, within thirty days from the date of this order, and on the first day of each month thereafter a statement of consumers receiving electric service at other than filed schedule rates, together with such information as this commission shall hereafter designate.

*It is hereby further ordered* that Pacific Gas and Electric Company shall file with the commission on or before the twentieth day of each month a statement covering its capital expenditures, revenues and expenses for the preceding month and for the period beginning January 1, 1918, and such other information as the commission may hereafter designate.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-seventh day of June, 1918.

## DECISION No. 5520.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

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Application No. 3557.

*Decided June 21, 1918.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

San Joaquin Light and Power Corporation having filed with the Railroad Commission statements showing that it has expended for construction purposes to May 30, 1918, the sum of \$547,039.22 against which no securities have been issued, and having asked the Railroad Commission for authority to use \$547,039.22 of the proceeds from the sale of the bonds authorized to be issued by Decision No. 5215, dated March 18, 1918, and Decision No. 5377, dated May 2, 1918, and it appearing to the Railroad Commission that of the expenditures referred to above, \$530,474.73 represents capital expenditures which may be properly paid from the proceeds from the sale of bonds; now, therefore,

*It is hereby ordered* that San Joaquin Light and Power Corporation be and it is hereby authorized to use \$530,474.73 of the proceeds obtained from the sale of bonds authorized to be issued pursuant to Decision No. 5215, dated March 18, 1918, and Decision No. 5377, dated May 2, 1918, for the purpose of financing its capital expenditures prior to May 30, 1918, other than those expenditures incurred against estimate numbers 2643; 193; 194; 195 and 605.

Dated at San Francisco, California, this twenty-seventh day of June, 1918.

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DECISION No. 5525.

IN THE MATTER OF THE REORGANIZATION OF NORTHERN ELECTRIC RAILWAY COMPANY, A CORPORATION, NORTHERN ELECTRIC COMPANY, A CORPORATION, NORTHERN ELECTRIC RAILWAY COMPANY—MARYSVILLE AND COLUSA BRANCH, A CORPORATION, AND SACRAMENTO AND WOODLAND RAILROAD COMPANY, A CORPORATION, AND OF THE APPLICATION FOR AUTHORITY TO TRANSFER THE PROPERTIES OF THE LAST MENTIONED CORPORATIONS TO A NEW CORPORATION AND FOR PERMISSION TO ISSUE STOCKS AND BONDS OF SAID NEW CORPORATION.

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Application No. 1933.

*Decided June 28, 1918.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

A supplemental petition having been filed in the above-entitled matter showing that on the twenty-eighth day of May, 1918, Walter D. Mans-

field, Oscar K. Cushing and George F. Detrick, acting for the reorganization committee of the Northern Electric Railway Company, purchased at the Special Master's sale under the decree of foreclosure, the properties referred to in the Railroad Commission's Decision No. 5432, dated May 25, 1918, and that Sacramento Northern Railroad, a corporation, has been designated by the purchasers as the grantee in the deed to be executed by the Special Master pursuant to the decree of foreclosure and the decree of confirmation of sale, and Sacramento Northern Railroad Company having filed with the Railroad Commission on June 27, 1918, a copy of the decree of confirmation of sale, a copy of its articles of incorporation, a copy of the proposed deed from the Special Master and the purchasers of the properties to Sacramento Northern Railroad, a copy of its proposed deed of trust securing the payment of \$5,500,000.00 of 5 per cent 20-year first mortgage bonds and a stipulation wherein it agrees that the reorganization expenses of the reorganization of Northern Electric Railway Company and its affiliated companies will, at such times, and in such amounts and in such manner as the Railroad Commission may order, be amortized out of income; now, therefore,

*It is hereby ordered* that Sacramento Northern Railroad be and it is hereby granted authority to execute a deed of trust substantially in the same form as the deed of trust marked Exhibit "D" and attached to the supplemental petition filed with this commission on June 27, 1918, in the above-entitled matter, provided that the approval or authority to execute said deed of trust shall not be interpreted as a commitment of the commission to that part of said deed of trust wherein it is provided that before bond interest and sinking fund payments are made, such payments must be approved by the Railroad Commission; and provided, further, that the approval herein given of said deed of trust is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

The Railroad Commission hereby approves the stipulation filed June 27, 1918, by Sacramento Northern Railroad relative to the amortization of the reorganization expenses of the reorganization of the Northern Electric Railway Company and its affiliated corporations.

*It is hereby further ordered* that the order in Decision No. 5432, dated May 25, 1918, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-eighth day of June, 1918.

## DECISION No. 5528.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AUTHORITY TO CREATE A NOTE INDEBTEDNESS IN THE SUM OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND TO SECURE THE SAME BY THE PLEDGE OF BONDS AND TO ISSUE, SELL AND DISPOSE OF SUCH NOTES TO THE EXTENT OF SIX HUNDRED NINETY THOUSAND DOLLARS FACE VALUE.

Application No. 3868.

*Decided July 1, 1918.*

*Chickering & Gregory, by Allen Chickering, for Applicant.*

LOVELAND, *Commissioner.*

## OPINION.

Western States Gas and Electric Company, in this application as amended, asks authority to execute an agreement securing the payment of \$1,500,000.00 of 5-year 6½ per cent collateral trust notes payable August 1, 1923; to issue \$690,000.00 of said notes at not less than 94 per cent of their face value; to issue interim certificates having a face value of \$690,000.00, pending the delivery of the \$690,000.00 of notes, and to issue and pledge \$931,500.00 of its first and refunding 5 per cent gold bonds payable June 1, 1941.

In Exhibit No. 4, attached to the petition herein, applicant reports its assets and liabilities as of May 31, 1918, as follows:

## Asset accounts:

Property, rights and franchises.....	\$7,883,417 58
Construction—prior to January 1, 1913.....	1,509,226 01
Construction—since December 31, 1912.....	2,322,918 95
Treasury securities .....	149,703 61
Bonds .....	\$20,003 61
Preferred stock .....	129,700 00
Securities of other corporations.....	6,065 00
Sinking funds .....	52,658 51
American River Electric Company—bonds redeemed.....	153,000 00
Cash .....	32,937 49
Notes receivable .....	519 54
Accounts receivable—net .....	192,236 96
Materials and supplies.....	156,723 80
Prepaid insurance .....	3,292 41
Motors leased .....	1,172 30
Signs leased .....	8,048 59
Unamortized discount on securities and expense .....	643,807 82
Other current assets .....	30,282 40
Other suspense .....	22,874 03
Total asset accounts .....	\$13,168,885 00

## Liability accounts:

Capital stock -----	\$5,534,500 00
Preferred -----	\$2,303,000 00
Common -----	3,231,500 00
Funded debt -----	6,457,500 00
Western States Gas and Electric Company bonds -----	\$4,413,500 00
American River Electric Company bonds -----	480,000 00
Western States Gas and Elec. Co. ten-year notes -----	1,564,000 00
Notes payable -----	250,816 87
Due Standard Gas and Electric Company -----	258,106 47
Accounts payable -----	121,699 37
Bond interest accrued -----	10,000 00
Coupon note interest accrued -----	31,280 00
General interest accrued -----	157 25
Interest accrued on consumers' deposits -----	117 99
Taxes accrued -----	51,391 61
Preferred stock dividends accrued -----	25,095 00
Consumers' deposits -----	16,810 82
Unclaimed checks -----	810 37
Reserve for accrued depreciation -----	300,991 58
Surplus -----	109,607 67
Total liability accounts -----	\$13,168,885 00

In reports on file with the Railroad Commission, applicant reports its revenues and expenses as follows:

Item	1917	1916	1915
<b>Electric operations—</b>			
Operating revenues -----	\$1,089,906 09	\$984,299 53	\$944,193 41
Operating expenses -----	589,130 70	509,702 48	544,432 54
Net operating revenue -----	\$500,775 39	\$474,597 05	\$399,760 87
<b>Gas operations—</b>			
Operating revenues -----	\$292,121 20	\$255,038 15	\$238,733 50
Operating expenses -----	153,747 14	122,359 31	122,262 45
Net operating revenue -----	\$138,374 06	\$132,678 84	\$116,471 14
<b>Water operations—</b>			
Operating revenues -----	\$20,812 45		
Operating expenses -----	18,189 48		
Net operating revenue -----	\$2,652 97		
Total operating revenues -----	\$1,402,869 74	\$1,239,337 68	\$1,182,927 00
Total operating expenses -----	761,067 32	632,061 79	666,694 99
Total net operating revenue -----	\$641,802 42	\$607,275 89	\$516,232 01
<b>Nonoperating revenue—</b>			
Interest -----			\$907 03
Miscellaneous -----			
Total -----			\$907 03
Gross corporate income -----	\$641,802 42	\$607,275 89	\$517,139 04

Item	1917	1918	1915
<b>Deductions—</b>			
Interest on funded debt.....	\$306,698 45	\$285,239 09	\$276,877 90
Other interest .....	18,650 25	7,013 55	3,862 46
Depreciation .....	60,000 00	60,000 00	-----
Amortization of debt discount and expense	17,421 20	12,465 86	6,690 35
Miscellaneous .....	7,871 18	5,537 87	4,617 90
<b>Total deductions .....</b>	<b>\$410,644 08</b>	<b>\$370,256 37</b>	<b>\$292,048 61</b>
<b>Balance to be added to accumulated surplus</b>	<b>\$231,158 34</b>	<b>\$237,019 52</b>	<b>\$225,090 43</b>
<b>Accumulated surplus beginning of year.....</b>	<b>139,605 40</b>	<b>144,739 89</b>	<b>127,309 10</b>
<b>Miscellaneous additions to surplus.....</b>	<b>2,712 08</b>	<b>3,150 00</b>	<b>1,385 66</b>
<b>Accumulated surplus plus additions.....</b>	<b>\$373,475 82</b>	<b>\$384,909 41</b>	<b>\$353,785 19</b>
<b>Deductions—</b>			
Dividends on common stock.....	\$77,556 00	\$74,728 41	\$20,295 30
Dividends on preferred stock.....	148,750 00	148,750 00	148,750 00
Depreciation charged to surplus.....	-----	-----	30,000 00
Miscellaneous .....	48,672 78	21,825 60	-----
<b>Total deductions .....</b>	<b>\$274,978 78</b>	<b>\$245,304 01</b>	<b>\$209,045 30</b>
<b>Accumulated surplus end of year.....</b>	<b>\$98,497 04</b>	<b>\$139,605 40</b>	<b>\$144,739 89</b>

The 1915 operating expenses include an allowance of \$60,000.00 for depreciation.

Samuel Kahn, vice president and general manager of the Western States Gas and Electric Company, reports that the company, under its deed of trust, may issue \$937,148.00 of its first and refunding mortgage bonds. Of this amount, the company intends to use \$931,500.00 as collateral to secure the payment of \$690,000.00 of its proposed 5-year 6½ per cent collateral trust notes.

Applicant asks authority to execute an agreement substantially in the same form as the agreement marked Exhibit No. 10 and attached to the petition herein, for the purpose of securing the payment of \$1,500,000.00 of 5-year 6½ per cent collateral trust notes. The company agrees to keep on deposit with the Union Trust Company of San Francisco, trustee under the agreement, a sufficient amount of its first and refunding mortgage bonds so as to render the collateral trust notes legal investments for savings banks under the terms of the Bank Act of the state of California. At this time, as said above, applicant asks authority to issue and pledge \$931,500.00 of its first and refunding mortgage bonds for the purpose of securing the payment of \$690,000.00 of its collateral trust notes. It asks authority to pledge the bonds at the ratio of 125 per cent of bonds for each 100 per cent of notes issued. Mr. Kahn believes that this ratio allows a sufficient margin so that it will not be necessary to pledge any additional bonds to render the \$690,000.00 of notes available for investments for savings banks. While

I am willing to recommend the approval of the collateral trust agreement, it should, however, be understood that such approval in no way commits the commission to authorize the issue of more than \$931,500.00 of bonds as security for the payment of the \$690,000.00 of notes. If it should become necessary to deposit additional collateral, the matter of issuing bonds for that purpose will have to be taken up in a subsequent proceeding.

In Exhibit No. 9, attached to the petition herein, applicant reports its estimated capital expenditures for the year ending May 31, 1919, as follows:

Item	Stockton division	Richmond division	Eureka division
Electric production—			
Steam power plant buildings and general structures .....			\$3,000 00
Sierra development .....	\$15,000 00		
Electric transmission—			
Poles and fixtures .....	3,000 00		
Overhead system .....	12,000 00		
Substation buildings and general structures .....		\$800 00	
Substation equipment—transformers and regulators .....	25,100 00	2,175 00	
Electric distribution—			
Poles and fixtures, including new feeders .....	39,000 00	5,500 00	8,000 00
Overhead system, including new feeders .....	62,000 00	8,000 00	12,000 00
Underground conduits and submarine .....	6,900 00		3,500 00
Miscellaneous equipment .....		550 00	
Line transformers and devices .....	30,000 00	4,500 00	5,000 00
Electric services—overhead .....		2,900 00	3,500 00
Underground services .....	1,000 00		
Electric meters .....	24,000 00	3,000 00	2,500 00
Municipal street lighting system .....	2,000 00	6,500 00	
Gas production—			
Gas generators .....			10,000 00
Accessory equipment at works .....	5,000 00		
Miscellaneous production equipment .....	2,500 00		
Gas distribution—			
Distribution mains .....	51,000 00		500 00
Gas services .....	22,000 00		500 00
Gas meters .....	20,000 00		500 00
Belt line .....	16,000 00		
General—			
Interest during construction .....	5,000 00		
General structures .....	8,000 00		
General office equipment .....	1,500 00	325 00	500 00
General shop equipment .....	500 00		
General store equipment .....	500 00		
General stable and garage equipment .....	7,000 00	500 00	1,500 00
Total all construction .....	\$359,000 00	\$34,750 00	\$51,000 00

Applicant reports that from November 30, 1916, to May 31, 1918, it has expended for capital purposes \$1,098,051.59. Of this amount, \$66,733.75 was financed through applicant's depreciation reserve, leav-



ing \$1,031,317.84 to be financed through the issue of securities. Part of the \$1,031,317.84 expended for capital purposes, has been paid through the use of \$527,474.86 obtained from the sale of 10-year 6 per cent notes issued pursuant to Decision No. 4183, dated March 16, 1917, and part through the use of \$27,500.00 obtained from the sale of preferred stock issued pursuant to Decision No. 5100 dated February 4, 1918. The total payments made on account of capital expenditures to May 31, 1918, aggregate \$554,974.86, leaving a total of \$476,342.98 of capital expenditures which applicant intends to finance through the issue of its 5-year 6½ per cent collateral trust notes. It asks authority that it be permitted to use \$476,342.98 of the proceeds from the sale of its notes to pay part of the indebtedness set forth in Exhibits Nos. "2" and "3," attached to the petition herein.

Mr. Kahn testified that the industrial developments in Stockton, Eureka and Richmond and the agricultural developments in applicant's territory, make it necessary for applicant to extend its system and install the improvements referred to in Exhibit No. "9," the cost of which is estimated at \$444,750.00.

Applicant has made arrangements for the sale of the \$690,000.00 of notes, and pending the actual delivery of the notes desires to issue interim certificates. Upon the delivery of the notes, these interim certificates will be canceled.

I herewith submit the following form of order:

#### ORDER.

Western States Gas and Electric Company having applied to the Railroad Commission for authority to execute a collateral trust agreement and to issue bonds and notes as indicated in the foregoing opinion, a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Western States Gas and Electric Company be and it is hereby granted authority to execute a collateral trust agreement substantially in the same form as the agreement attached to the petition herein and marked Exhibit No. "10."

*It is hereby further ordered* that Western States Gas and Electric Company be and it is hereby granted authority to issue \$690,000.00 of 5-year 6½ per cent collateral trust notes payable August 1, 1923, or in lieu thereof, a like amount of interim certificates, and to issue and pledge as security for the payment of said notes \$931,500.00 of its first and refunding 5 per cent gold bonds payable June 1, 1941.

The authority herein granted is granted upon the following conditions, and not otherwise:

(1) The notes herein authorized to be issued shall be sold for not less than 94 per cent of their face value plus accrued interest.

(2) Of the proceeds realized from the sale of the notes herein authorized, \$476,342.98 may be used to finance construction expenditures prior to May 31, 1918, and pay indebtedness referred to in Exhibits Nos. "2" and "3," attached to the petition herein. The remaining proceeds shall be used to finance construction expenditures referred to in Exhibit No. "9," attached to the petition herein.

(3) The approval herein given of the collateral trust agreement is for the purpose of this proceeding only, and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said collateral trust agreement as to such other legal requirements to which said collateral trust agreement may be subject.

(4) The authority herein granted to execute a collateral trust agreement substantially in the same form as the agreement attached to the petition herein and marked Exhibit No. "10," shall not be interpreted as authorizing the issue and deposit of bonds in excess of \$931,500.00, it being understood that if it should become necessary to deposit additional bonds under the terms of said agreement, the matter of issuing and depositing such additional bonds will be taken up in a subsequent proceeding.

(5) After the notes herein authorized to be issued shall have been paid, the bonds pledged as collateral security for the payment of said notes shall be returned to applicant's treasury and thereafter issued only upon further order of this commission.

(6) On or before the twenty-fifth day of each month applicant shall file with the Railroad Commission such statements as are required by the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

(8) The authority herein granted shall apply only to such notes and bonds as may be issued or pledged on or before December 15, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this first day of July, 1918.

## DECISION No. 5530.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND  
POWER CORPORATION FOR CERTIFICATE OF PUBLIC CONVEN-  
IENCE AND NECESSITY.

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Application No. 3761.

*Decided July 1, 1918.*

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BY THE COMMISSION.

**SUPPLEMENTAL ORDER.**

Whereas San Joaquin Light and Power Corporation has filed supplemental application requesting certificate of public convenience and necessity to exercise in its entirety the franchise granted to it by Ordinance No. 150 of the board of supervisors of the county of Kern; and

Whereas Valley Natural Gas Company has signified its willingness for the San Joaquin Light and Power Corporation to exercise the rights of the franchise granted by the county of Kern to its full extent; and

Whereas applicant has stipulated, in form satisfactory to the commission, that it will never, in any proceeding for the fixing of rates or a valuation of its properties, claim for said franchise a value greater than the sum of three hundred and seventy-two and 10/100 dollars (\$372.10), this being the cost to applicant of said franchise,

*It is hereby declared* that public convenience and necessity require and will require the San Joaquin Light and Power Corporation to exercise the rights and privileges conferred by Ordinance No. 150 of the board of supervisors of the county of Kern on the third day of June, 1918.

Dated at San Francisco, California, this first day of July, 1918.

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DECISION No. 5534.

GLENVIEW IMPROVEMENT CLUB

*vs.*

PEOPLES WATER COMPANY.

Case No. 900.

CITY OF BERKELEY

*vs.*

PEOPLES WATER COMPANY.

Case No. 943.

CITY OF RICHMOND

*vs.*

PEOPLES WATER COMPANY.

Case No. 987.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO RATES,  
RULES AND REGULATIONS OF PEOPLES WATER COMPANY.

Case No. 1008.

*Decided July 1, 1918.*

WATER RATES - WATERSHED LANDS - FILTRATION - OPERATING EXPENSES.—(1)  
Water rates of utility supplying a number of communities are fixed with reference to different classes of service irrespective of locality.

(2) Necessity of utility owning watershed lands discussed; in this proceeding utility is allowed to retain a margin of approximately 1,500 feet around reservoirs and along principal stream courses, the remainder of the watershed lands to be disposed of and the utility to construct and put into operation adequate filtration plants.

(3) In accordance with offer of utility the sum allowed by the commission as operating expenses is treated as a trust fund to be expended under the general supervision of the commission.

*B. D. Marx Greene*, for City of Berkeley.

*Paul C. Morf* and *John S. Partridge*, for City of Oakland.

*D. J. Hall*, for City of Richmond.

*Oliver Ellsworth*, for City of Piedmont.

*A. F. St. Sure*, for City of Alameda.

*Thomas McCourtney*, for City of Albany.

*T. C. Judkins*, for Town of Emeryville.

*H. L. Hagan*, for Glenview Improvement Club.

*W. E. Creed*, *Arthur G. Tashira* and *Samuel Spring*, for Peoples Water Company.

EDGERTON, *Commissioner*.

## OPINION.

This case involves all of the rates, rules and regulations of East Bay Water Company in its supply of water to communities on the east side of San Francisco Bay.

Prior to the institution of this case on the commission's own initiative, there had been filed a number of complaints against this company or its predecessor involving rates, rules and regulations in particular localities and inasmuch as this proceeding (Case No. 1008) is comprehensive, an order made herein will settle all of the issues raised in the separate proceedings and they may then be dismissed.

This company serves water to and within the cities of Oakland, Berkeley, Alameda, Piedmont, Emeryville, Albany, Richmond and San Leandro, and also widely separated portions of the counties of Alameda and Contra Costa outside of these communities.

The rates in these various communities are not the same. They differ in amount of minimum charge, measures for determining minimum charge and unit rate for water sold by measurement, fire hydrant

rental and water sold for public use. The following tabulation, adapted from an exhibit of the company, gives a general idea of the differences that exist:

Monthly Payments.

	Minimum small connections	Per 100 cu. ft.		Public use		
		To 2,000 cu. ft.	Above 2,000, 000 cu. ft.	Street sprinkling	Hydrant rental 2-Inch      Larger	
Oakland -----	\$0.85 to \$1.50	\$0.240	\$0.150	\$0.21 to \$0.17	-----	\$2.47
Berkeley -----	1.50	.262	.262	.112	\$0.50	1.50
Alameda -----	1.00	.224	.224	.224	-----	1.00
Richmond -----	1.50	.262	.262	.224	-----	3.00
Piedmont -----	1.50	.262	.262	.150	.50	2.75
Emeryville -----	1.50	.240	.240	.240	-----	2.00
San Leandro -----	1.00 to 1.50	.240	.190	.127	-----	1.25
Albany -----	1.50	.262	.262	-----	.50	1.50
Unincorporated ----	1.50	<sup>2</sup>	<sup>2</sup>	.150	-----	-----

<sup>1</sup>Determined by flat rate measures. Can be higher if more than one occupancy on one service.

<sup>2</sup>Takes rate of nearby municipality.

<sup>3</sup>Meter minimum of \$1.20.

<sup>4</sup>Meter minimum of \$1.00.

<sup>5</sup>Oakland owns its hydrants. The other cities do not.

Minimum on connections larger than 1½": 73 cents per month per ½" of diameter. Fixed by Oakland ordinance.

One of the questions which must be answered here is "shall this water system and its service be treated as a whole and consumers in a given class be charged the same rate regardless of location in communities?" In other words, shall all political boundary lines be disregarded and rates fixed by treating consumers the same as though they were all residents of one large community?

This question in my judgment must be answered in the affirmative. I can see no reason why for a like service a consumer of this company should pay a higher or a lower rate merely because he may reside in an area surrounded by particular municipal boundaries.

Therefore, the burden of cost of the service of water as a whole to all water consumers has been distributed as equitably as may be upon each class of service, regardless of the locality in which such service is given.

One issue of outstanding importance in this proceeding concerns the retention of all of the large acreage of real property owned by the company in the watershed of its water supply, as used and useful in the conduct of its public utility business.

Representatives of the cities and consumers contend that the land owned by this company, and draining toward points of diversion of water, is not all necessary in the proper service to consumers; that all that is necessary is the retention of a reasonable margin of land around the water sources.

The company on the other hand contends that practically all such land now owned by it is used and useful in the service to consumers, in that it constitutes a large proportion of the watershed land upon which the water originates and the ownership thereof results in safeguarding the water supply by preventing the entry of human beings and animals thereon with consequent pollution.

A large amount of expert testimony was introduced on this subject. Mr. C. P. Gillespie, a sanitary engineer and the director of the State Board of Health, testified very positively that these water supplies would be fully as safe and palatable for drinking purposes if all of the water was filtered by modern methods and all watershed lands disposed of except a comparatively narrow margin around reservoirs and along streams. He explained in considerable detail the working of the modern filter and expressed the opinion that filtration was a very much greater safeguard against water contamination than the ownership of watershed lands. Furthermore, that the ownership of watershed lands did not insure pure water and that in any event the water produced in this system should be filtered by modern methods. He called attention to the fact that the large majority of water systems in the United States were not protected by the ownership of watershed lands and that in many instances water, admittedly badly polluted, was made entirely safe for human consumption by filtration and chemical treatment.

Mr. J. H. Dockweiler, an engineer employed by the city of Oakland, gave testimony in agreement with the foregoing and produced a tabulation with maps of water systems in various parts of the United States where there was no ownership of watershed lands.

On the other hand, the president of the State Board of Health, Dr. George E. Ebright, testified that in his opinion all of the watershed lands of this company should be retained for the purpose of safeguarding the water supply. He stated that he was not expert in the matter of water supplies and that he knew practically nothing of modern filtration methods or their accomplishments.

The company produced Mr. Geo. C. Whipple, an engineer of national reputation, who has given particular attention to the sanitation of water supply. An analysis of his testimony clearly establishes the proposition that it is not necessary, as a sanitary measure, that a water company own watershed lands. It is true he states that in his opinion this company should retain the watershed lands which it now owns for added safety and because of public opinion, but he emphatically declares that a modern filter is thoroughly efficient and does safeguard water against both pollution and disease germs.

He declared that complete ownership of land was not necessary but that such control of the land be had by the company as to permit

only such use as would not cause pollution of the water. In answer to a question he said:

"I mean ownership in order that the use might be properly controlled. I don't mean the absolute exclusion of all human beings and putting a board fence around the watershed to keep everybody off. I don't think that is necessary always."

At another place in his testimony he says:

"Filtration accomplishes more than disinfection. It yields a clean water, as well as a safe water."

He also said in answer to the question as to whether multiple filtration would make water safe:

"If you are talking about safety as meaning simply safety from disease production, I don't think there is any question but what double filtration would make the water, I may say, thoroughly safe, and that also the ownership of the lands, or half of the lands, and a modern filtration would also make the water safe. That is, you are asking me to compare two things, both of which are excellent and so nearly alike that I don't believe it is possible for anyone to make any real comparison between them."

Considering Mr. Whipple's testimony as a whole it is quite convincing to the effect that modern filtration would be effectively applied to this company's water supply and that reasonable control of the watershed lands to prevent direct pollution of the water is all that is necessary to make the water entirely sanitary and palatable.

W. E. Creed, president of the company and its legal representative in these proceedings, took the position that the major part of the watershed lands of this company should be retained even though it were determined that the water could be safeguarded by filtration. He insisted that experience demonstrated that people would not be content with filtration alone but would be continually disturbed and anxious over the safety of the water supply if the watershed became populated. He desired, however, to be distinctly understood as not deprecating the value of modern filtration; in fact, he said he was an advocate of it.

When it is considered that this company now owns only 46 per cent of the watershed lands now producing water for use, it is obvious that the supply is not protected by complete ownership of the shed, and from the evidence I am convinced that the ownership of approximately one-half of watershed lands adds no more protection than a reasonable and continuous margin around streams and lakes.

If the position be taken that the ownership of watershed lands is necessary, then logically this commission should insist upon the acquisition of the remainder of the watershed lands and when it is considered that the total lands now owned by this company are valued

by their own witnesses at approximately \$7,000,000.00, and the lands which might be eliminated are given a value of approximately \$4,000,000.00, and that to acquire the remaining watershed lands would require the investment of perhaps several million dollars more, the importance of this question is realized.

Of course, if the ownership of watershed lands could be had with small burden to the consumers or loss to the company, we could have unanimous agreement that such ownership be maintained, but when the claimed value of the watershed lands represents several million dollars and modern filtration plants would cost approximately one-tenth of the claimed value of these lands, we are forced to a choice. Furthermore, the evidence clearly shows that modern filtration plants should be installed to safeguard this water; whether watershed lands are retained or not.

I do not believe that we are warranted in perpetually burdening consumers with the carrying cost of millions of dollars of watershed lands merely because of a fear of popular agitation if watershed lands are not owned. We note that in most of the communities in the United States watershed lands are not owned by the companies or municipalities and there is no evidence of any popular agitation on the subject. Surely we can rely upon the intelligence of the people of the East Bay region to base their attitude toward a water supply upon the question of whether pure and sanitary water is provided rather than upon the methods of the company in collecting and treating this water.

The evidence to me is clear and convincing that the water of this company should be filtered by modern methods and that thereupon there will be no further need of continuing the ownership of all of the watershed lands of this company.

However, I believe that a reasonable time should be allowed within which a readjustment of the affairs of the East Bay Water Company may be brought about so that no violent and disastrous financial result will ensue. If the many thousands of acres of watershed land are suddenly removed from the rate base, the results on the financial condition of this company would be disastrous, and bankruptcy might ensue.

Considering that the public has up to this time not only sanctioned the ownership of these lands as a part of the water system but at times has compelled the acquisition of such lands, it is not unfair to the communities that they bear the burden during the readjustment period.

I shall recommend, therefore, that there be permanently retained, as used and useful lands, a margin of approximately 1,500 feet around the reservoirs and along principal stream courses in this system, and that the remainder of the watershed lands be disposed of; that the



company within a reasonable time construct and put into operation modern filtration plants for all of their water supplies.

The evidence is not sufficient upon which to base a finding of a definite time within which this superfluous land should be disposed of, and these filtration plants built, and therefore the company should be required within a period of ninety days from the date of this order to prepare and file with the commission a plan or program for the disposal of these superfluous lands and the time within which such disposal will be made; and that the company file with the commission within said ninety days a plan for the construction and putting into operation of modern filtration plants and statement of the time within which such plants shall be completed.

That meantime the lands now owned by the company be considered as a part of a rate base and that upon the disposal of these lands under the plan to be submitted and approved, the water rates shall be readjusted accordingly.

Rates should be fixed for this company upon the broad considerations of the service being rendered to the communities on the east side of San Francisco Bay and to the necessary income to keep the company in a sound financial condition.

We are dealing here with a water company performing an essential service for a great number of people and which has emerged from a bankrupt condition into one of sound and conservative capitalization which was created under authority of this commission. This company, like other utilities in California, has felt the marked effect of increased costs of operation due to war conditions and, while it did not originate this proceeding with a request for an increase of rates, the situation is such that, since the commission on its own initiative instituted an investigation into its rates, rules and regulations, conditions have so changed that it will be necessary to treat the whole matter in the light of the present status.

In this proceeding exhaustive evidence was introduced in an effort to establish the usual factors of value of property, but I see no useful purpose to be served in an analysis of this evidence in view of the use of the base above suggested in fixing rates.

Mr. John S. Drum, a witness on behalf of the company, testified as to its financial requirements. He stated that in order that this company be kept financially sound its income should be sufficient to pay operating expenses, taxes, depreciation, bond interest and dividends on the Class A preferred stock and create a surplus. Since he gave his testimony the company has submitted a statement of additional operating expenses and bond interest and modifying his figures by these sums results in the following:

Gross Income.	
Factors	1918
1. Operating expenses and taxes.....	\$897,205 00
2. Depreciation .....	200,000 00
3. Bond interest .....	629,875 60
4. Dividends .....	298,667 00
5. Surplus .....	99,556 00
Total necessary gross earnings.....	\$2,225,303 00

These items have been carefully checked by Mr. R. W. Hawley, hydraulic engineer of the Railroad Commission, and by Mr. W. C. Fankhauser, stock and bond expert of the commission, and I am satisfied that the operating expenses submitted by the company are reasonable except that there should be eliminated therefrom \$120,000.00 of the \$200,000.00 annual depreciation claimed because a reasonable depreciation annuity upon a sinking fund basis would be \$100,000.00 and from this should be deducted \$20,000.00 because the maintenance and repair accounts already allowed for the replacement of water meters and service connections. Also there has been eliminated from the claimed operating expenses of the company \$52,000.00 Railroad Commission expense, as it is obvious that the company will have no such proceedings before this commission as to justify any such expenditure. The sum of \$7,000.00 annually has been allowed for this item. In the amount allowed for maintenance and operation is an emergency pumping estimate of \$106,000.00.

Mr. Creed in calculating the 1918 bond interest and dividend requirements assumed that the bonds and stock necessary to finance the 1918 construction expenditures would be issued on January 1, 1918. Mr. Fankhauser on the other hand assumes that all of the 1918 construction expenditures will be financed through the issue of bonds at not less than 92 and preferred stock at not less than 80, and further assumes that the securities instead of being issued on the first of the year will be issued in equal installments from month to month as the construction work progresses. Mr. Fankhauser has proposed what appears to be a reasonable surplus of \$60,000.00 per year as compared to Mr. Creed's \$99,556.00.

These changes result in the following:

Gross Income.	
	1918
Operating expenses and taxes.....	\$845,205 00
Depreciation .....	80,000 00
Bond interest .....	609,515 00
Dividends .....	288,972 60
Surplus .....	60,000 00
Total .....	\$1,983,722 60

It will be seen that the figures last given result in a net income to the company over operating expenses, taxes and depreciation of \$976,361.00 and this net income is less than 8 per cent upon the value heretofore fixed by this commission upon the property of applicant when authorization was given to issue stocks and bonds. That value was \$14,100,000.00 and there have been additions and betterments since of over \$500,000.00 and 8 per cent on this sum is \$1,168,000.00. This does not take into account the recent expenditure on the San Pablo dam project.

The reorganization whereby all of the properties of the old Peoples Water Company were transferred to the present East Bay Water Company resulted in a new management being put in office at the head of which is W. E. Creed. The evidence is that under his direction the company has changed its attitude toward the public and every reasonable effort is being made to conduct its affairs with due regard to service to consumers.

Interest on its bonds is promptly paid, and dividends on the Class A preferred stock have been regularly declared. Further than this the company apparently has no immediate intention of extending its dividend policy to the other class of stock. So we are not here being asked to produce a revenue which will either increase dividends now being paid nor to make it possible to extend the dividends to other classes of stock.

I believe that the commission should give due consideration to the financial needs of this company, having in mind that the rates to be fixed shall not be unreasonably or prohibitively high and that the revenue from the consumers be such as not only to enable this utility to continue service to the communities it serves but to constantly better this service.

A very important result of an adequate revenue will be the establishment of the company's credit so that it may obtain money at reasonable rates, thus preventing a heavier burden being put upon the consumers.

Having these circumstances in mind I recommend that a gross revenue of \$2,000,000.00 per annum be produced by consumers and that this gross amount be spread over the various classes of service rendered as hereafter indicated.

It becomes necessary not only to fix the rates for general consumers of water but also to fix the rates to be charged municipalities for service. These latter rates are based in part upon the advantage gained by the communities measured by the value of the property in each municipality receiving a direct benefit. To this is added the investment in fire hydrants owned by the company, the cost of maintaining the same and a charge for pipe lines of certain sizes on the assumption that they are larger than necessary for normal domestic and industrial draft

and of particular value in delivering large quantities of water in a short time.

The excess capacity of the water system that may be deemed justified by the necessity of providing for emergency demands such as that in fighting fire can not fairly be charged against regular customers and paid under cover of a unit rate for water.

I have separated out only part of the charge that could reasonably be collected from owners of property as distinguished from water users. The total amount of this charge is slightly more than one-tenth of the estimated income to be realized by the utility company. It is certain that the proportion of the public utility water system expense not essential in the delivery of water to individual consumers is much greater than this.

The Wisconsin Railroad Commission has made a prolonged study of the proportion of cost properly chargeable to the general public which it calls the fire service charge and in several typical cases reports it to be between 25 per cent and 75 per cent of the total charges. In systems of the magnitude of the East Bay Water Company it is found to be between 25 per cent and 50 per cent.

Mr. Creed on behalf of the company offered to treat the sum allowed by the commission as operating expenses, as a trust fund, to be expended by the company under the general supervision of the Railroad Commission, and that in the event that the amount allowed was found to be greater than was actually needed, that any overplus would be used for the benefit of consumers in any manner directed by the commission.

This offer if accepted means that instead of the stockholders profiting by an overestimate of operating expenses used by this commission in arriving at the sum necessary to be paid by consumers in rates, that the consumers themselves would be benefited. Of course, this offer should not be taken to mean that the stockholders should be wholly deprived of any benefit arising by reason of economies or efficiencies introduced by the management in the conduct of the business of the company. Nor should it be understood that of necessity there must be a refund of money to consumers. There are several dispositions that could be made of this money for the benefit of consumers other than refunding; such, for instance, as investment in plant uncapitalized, etc. I believe this offer should be accepted and that the company should be asked to file a written stipulation as provided in the order herein, designed to carry this plan into effect.

Herewith a form of order:

**ORDER.**

This commission having upon its own initiative called into question all of the rates, rules, regulations and practices of East Bay Water Company and a public hearing having been had,

It is hereby found as a fact by the Railroad Commission of the state of California that the existing rates of East Bay Water Company are unjust and unreasonable and that the rates hereinafter set out are just and reasonable rates to be charged for the service of water by said company to its consumers.

*It is hereby ordered* by the Railroad Commission of the state of California that East Bay Water Company is hereby authorized to file with this commission a schedule of rates to become effective on July 1, 1918, as follows:

Initial public use charges:

Basic charge annually as of the year 1917—

Alameda -----	\$22,000 00
Albany -----	1,000 00
Berkeley -----	43,000 00
Emeryville -----	2,000 00
Oakland -----	105,500 00
Piedmont -----	5,000 00
Richmond -----	11,000 00
San Leandro -----	2,500 00

Adjustment to be made in fixing the charge for the fiscal year 1918-1919 and following years by measure of net changes in the inventory of company pipe lines and hydrants from that of January 1, 1917, as follows:

4 inch fire hydrants-----	\$8 00 per annum
6 inch fire hydrants-----	10 00 per annum
Per 1,000 feet of street piped with--	
12 inch diameter or larger-----	\$50 00 per annum
6 inch and larger to 12 inch-----	30 00 per annum
4 inch and larger to 6 inch-----	10 00 per annum

General use charges monthly:

Minimum for each meter in use--

½ inch meter at rate of-----	\$1 00 per month
1 inch meter at rate of-----	1 50 per month
1½ inch meter at rate of-----	2 25 per month
2 inch meter at rate of-----	3 25 per month
3 inch meter at rate of-----	5 75 per month
4 inch meter at rate of-----	10 00 per month
6 inch meter at rate of-----	25 00 per month

Unit price:

For water used to amount of the minimum charge, 25 cents per 100 cubic feet.

For all other use, 20 cents per 100 cubic feet.

Public use:

At general rates where water is measured by meter permanently set. Otherwise, at 20 cents per 100 cubic feet with no minimum.

Water used in fighting fire, no charge.

Private fire service:

When no meter is on service, one-half the minimum charge for corresponding size of service pipe.

*It is hereby further ordered* that before thirty days from the date hereof said company shall submit to this commission for its acceptance rules and regulations for the service of water to its consumers.

*It is hereby further ordered* that within ninety days from the date of this order the company shall file for the approval of the commission

a plan for the disposal of superfluous lands and a statement of the time within which such disposal will be made, and shall also within said ninety days file for the approval of the commission a plan for the construction and putting into operation of modern filtration plants, together with a statement of the time within which such plan shall be completed.

*It is further ordered* that within ten days from the date of this order the company shall submit for the approval of the commission a stipulation, in writing, designed to make effective the plan of treating operating expenses, as mentioned in the foregoing opinion.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this first day of July, 1918.

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DECISION No. 5535.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY  
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 3822.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY  
FOR AN ORDER AUTHORIZING THE ISSUE OF NOTES.

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Application No. 3823.

*Decided July 1, 1918.*

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TRUST AGREEMENT.—Disapproval is expressed of a provision in a trust agreement leaving to the discretion of the utility the nature of the securities which may be acquired through sinking fund payments.

*Glenn D. Smith*, for Applicant.

LOVELAND, *Commissioner*.

**OPINION.**

In Application No. 3823, Ontario Power Company asks authority to execute to Oscar Arnold, trustee, an agreement defining the terms and conditions under which it may issue \$90,000.00 of 7 per cent serial notes and issue at this time at par \$60,000.00 of said notes and use the proceeds to finance the installation of the hydroelectric plant referred to below.

In Application No. 3822, Ontario Power Company asks the Railroad Commission to declare that public convenience and necessity require and will require it to construct a hydroelectric plant in San Antonio Canyon. The company reports that it owns a power right on San Antonio Creek which it desires to develop. It proposes to take the water

from the San Antonio Creek at a point near the south line of the northwest  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of section 30, township 2 north, range 8 west, S. B. B. and M., and carry it by 30-inch cement pipe line approximately 3,230 feet at a grade of  $2\frac{1}{2}'$  per 1,000' and deliver it to a 24-inch steel pressure line, which will convey it 1,400 feet to the power house located in the southeast  $\frac{1}{4}$  of the southeast  $\frac{1}{4}$  of section 25, township 2 north, range 8 west, S. B. B. and M. The gravity line will have a capacity of approximately 20 second feet. The surveyed head from point of intake of the pressure line to the waterwheel nozzles is 310.5 feet. It is proposed to install a 600 horsepower impulse waterwheel direct connected to a 500 k. v. a. 80 per cent power factor, 11,500 volt generator. It is estimated that the plant will produce approximately 2,700,000 kilowatt hours per annum. The Southern California Edison Company will contract to take all of the current generated and not absorbed by the Ontario Power Company, except during the hours of 12 midnight until 6 a.m. during the first five years of the contract, and after five years, it will take all the current generated, at all hours, not absorbed by the Ontario Power Company.

In a statement attached to the petition in Application No. 3822, applicant reports the estimated cost of installing the proposed power plant at \$64,551.00. The engineering department of the commission has checked the estimated cost and reports the same to be reasonable. The engineering department further reports that under the conditions of the contract with the Southern California Edison Company and the requirements of the Ontario Power Company, the proposed plant will be a benefit and its installation justified.

Under the agreement which applicant proposes to execute to Oscar Arnold, trustee, it may issue from time to time \$90,000.00 of 7 per cent serial notes, date July 1, 1918. Notes in the amount of \$6,000.00 mature annually. All or part of the notes are subject to redemption at par on July 1, 1921, or on any subsequent interest payment date. Of the notes, applicant at this time desires authority to issue \$60,000.00, the remaining \$30,000.00 of notes may be issued in such amounts as at par value will equal 80 per cent of the cost of permanent improvements and betterments or property acquired.

For the purpose of creating an annual sinking fund for the payment of notes and interest, the company agrees that on July 1, 1918, and on the first day of each month thereafter so long as any of the notes remain unpaid, it will pay to the trustee the sum of \$500.00 plus an amount equivalent to the monthly interest accruing during the month in which said payment becomes due. All moneys paid into the sinking fund shall be deposited by the trustee in his name as trustee in the First National Bank of Ontario, in the city of Ontario, California. While the agreement directs the trustee to use the sinking fund payments to re-

deem notes and pay interest on the notes, the company retains the right to control the investment of the sinking fund payments. In my opinion, the nature of the securities which may be acquired through sinking fund payments, should not be left to the discretion of the company, but should be defined specifically in the agreement. I believe that the agreement should be modified so as to require the application of the sinking fund moneys to the payment of interest and the redemption of the notes, or pending such payments, to be deposited in a bank in the name of the trustee or invested only in such securities as may be legal investments for savings banks under the Bank Act of California. It is, of course, obvious, inasmuch as the notes mature serially, that the sinking fund moneys should be held as a free asset in order that the moneys may be available when interest is payable and the notes become due.

Reports on file with the Railroad Commission indicate that the earnings of Ontario Power Company have been more than adequate to pay interest on \$60,000.00 of notes, and that under judicious management the company should encounter no difficulty in meeting its interest charges.

I herewith submit the following form of order:

**ORDER.**

Ontario Power Company having applied to the Railroad Commission for permission to construct a hydroelectric plant and for permission to execute an agreement and issue notes thereunder, as indicated in the foregoing opinion, a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income, the Railroad Commission hereby declares that public convenience and necessity require and will require Ontario Power Company to construct the hydroelectric plant referred to in the foregoing opinion, and more particularly described in the petition in Application No. 3822.

*It is hereby ordered* that Ontario Power Company be and it is hereby granted authority to execute an agreement substantially in the same form as the agreement attached to the petition in Application No. 3823 for the purpose of defining the terms and conditions under which applicant may issue \$90,000.00 of 7 per cent serial notes, provided that the sinking fund provision referred to in said agreement be modified so as to limit the use of the sinking fund payments to the payment of the



notes and the interest as the same becomes due, and pending such payment, to be deposited in a bank or banks in the name of the trustee, or invested in securities which may be legal investments for savings banks under the Bank Act of the State of California, and such securities deposited with the trustee to be held by the trustee as security for the payment of the notes.

*It is hereby further ordered* that Ontario Power Company be and it is hereby granted authority to issue, at not less than par, for cash, \$60,000.00 of 7 per cent serial notes upon the following conditions:

(1) The proceeds obtained from the sale of the notes shall be used to finance in whole or in part the construction of the hydroelectric power plant to be constructed pursuant to the authority granted in this order.

(2) The approval herein given of the agreement under which applicant proposes to issue, as and when authorized by the commission, \$90,000.00 of serial notes, is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said agreement as to such other legal requirements to which said agreement may be subject.

(3) Ontario Power Company shall file a verified copy of the agreement herein authorized to be executed within ten days after its execution.

(4) Ontario Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the notes herein authorized to be issued, and on or before the twenty-fifth day of each month, until all of the proceeds shall have been disbursed, shall make verified reports to the commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted shall not become effective until Ontario Power Company has paid the fee prescribed in the Public Utilities Act.

(6) The authority herein granted shall apply only to such notes as may be issued on or before December 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this first day of July, 1918.

## DECISION No. 5536.

IN THE MATTER OF THE APPLICATION OF S. M. WALKER TO MORTGAGE PUBLIC UTILITY PROPERTIES AND TO ISSUE A NOTE.

Application No. 3583.

*Decided July 1, 1918.*

BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

The Railroad Commission having on April 6, 1918, authorized S. M. Walker to mortgage his public utility water plant to secure the payment of a \$13,500.00 five-year 6 per cent note, and use the funds obtained through the issue of the note to pay the indebtedness set forth in Exhibit No. 1, and to improve and extend the water system referred to in said exhibit; and S. M. Walker having filed in the the above-entitled matter a supplemental petition asking authority to issue a \$15,000.00 ten-year 7 per cent note in lieu of the \$13,500.00 five-year 6 per cent note, and secure the payment of said note by a mortgage covering his public utility water plant; and good cause appearing.

*It is hereby ordered* that the order in Decision No. 5285, dated April 6, 1918, be and the same is hereby amended so as to permit S. M. Walker to issue, on or before October 1, 1918, a \$15,000.00 note for a term of ten years or less, at a rate of interest of 7 per cent or less per annum, and to secure the payment of said note by the execution of a mortgage substantially in the same form as the mortgage attached to the petition herein, said note to be issued and said mortgage to be executed in lieu of the note and mortgage referred to in the order in Decision No. 5285, dated April 6, 1918.

The proceeds from the note herein authorized to be issued shall be used for the purpose of paying the indebtedness set forth in Exhibit No. 1, to pay for the cost of extending and improving applicant's water system referred to in said exhibit and in a letter dated June 27, 1918, or for such other purposes as the Railroad Commission may hereafter authorize.

*It is hereby further ordered* that the order in Decision No. 5285, dated April 6, 1918, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this first day of July, 1918.

## DECISION No. 5538.

IN THE MATTER OF THE APPLICATION OF THE TOWN OF MARTINEZ FOR PERMISSION TO BUY, AND OF THE PORT COSTA WATER COMPANY TO SELL, THE WATER DISTRIBUTION SYSTEM IN MARTINEZ AND VICINITY, AND THAT A RATE FOR WHOLESALING WATER TO THE TOWN OF MARTINEZ BE APPROVED.

Application No. 3768.

*Decided July 2, 1918.*

*A. F. Bray*, for the Town of Martinez.

*E. H. Schibley*, for Port Costa Water Company.

*GORDON, Commissioner.*

## OPINION.

This application asks approval of an agreement entered into between the Port Costa Water Company and the town of Martinez, in which the former agrees to sell its water distribution system in the town of Martinez and vicinity to the latter at a stated price. Incidentally, provision is made in the agreement for sale of water wholesale at rates agreed upon between the parties.

Following is the description of the property involved:

All that certain water distributing system, together with all reservoirs, pumping plants, pipe, valves, service connections, taps, hydrants and meters of every kind, nature and description; together with all materials, equipment, tools and personal property, franchises, water contracts, privileges and other property of every kind, nature and description belonging thereto and used in connection with said water distributing system; together with all real estate belonging to said system now being situated and located in the town of Martinez, and the Alhambra Heights Tract and Shell Heights Tract without the town of Martinez.

A hearing was held at Martinez on June 26th at which testimony was introduced on behalf of the town of Martinez and of the Port Costa Water Company. They are in complete accord with reference to the transfer of the property, the price of same and the rates for wholesale water. No evidence was presented in opposition to the agreement heretofore entered into between the parties. I believe that under the circumstances the public interest will be served if the agreement is ratified. It should be understood, however, that an approval by the commission of any rates for water set out in the agreement shall not interfere with the commission at any future time establishing a new rate to take the place of the agreed rate, as in its judgment it may decide to do after investigation.

**ORDER.**

The town of Martinez and Porta Costa Water Company having filed with the Railroad Commission an application and copy of a certain agreement entered into between these two parties with reference to the transfer of a certain distributing system in Martinez and vicinity and the establishment of a wholesale rate for water and asking the Railroad Commission to approve said agreement.

A public hearing having been held and the town of Martinez and Port Costa Water Company, having been accorded full opportunity to present such evidence as they may desire to submit and each of said parties having presented such evidence, and the Railroad Commission of the state of California being fully advised in the premises,

It is hereby found as a fact that the just compensation to be paid by the town of Martinez for all the said company's water distributing system as aforesaid, is thirty-three thousand thirty-nine dollars and nine cents (\$33,039.09). Said property for which said compensation is hereby fixed as just and reasonable is described in the opinion preceding this finding and excepting therefrom any extensions and installations made since May 17, 1918, the actual cost of same to be added to the above, if agreed to by the two parties, and

*It is hereby ordered* that the Port Costa Water Company file with this commission the following schedule of rates for water wholesale to the town of Martinez, said rates to become effective July 1, 1918:

Fourteen cents per 100 cubic feet for the first 400,000 cubic feet per month.  
Thirteen cents per 100 cubic feet for the second 400,000 cubic feet per month.  
Nine cents per 100 cubic feet for all consumption over and above 800,000 cubic feet per month.

By order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this second day of July, 1918.

## Decision No. 5539.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY REQUESTING THE RAILROAD COMMISSION TO ESTABLISH REASONABLE RATES FOR NATURAL GAS SUPPLIED TO ITS SOUTHERN DISTRICT.

## Application No. 3434.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY REQUESTING THE RAILROAD COMMISSION TO ESTABLISH REASONABLE RATES FOR NATURAL GAS SUPPLIED TO ITS EASTERN DISTRICT.

## Application No. 3445.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY REQUESTING THE RAILROAD COMMISSION TO ESTABLISH REASONABLE RATES FOR MIXED GAS SUPPLIED TO ITS WESTERN DISTRICT.

## Application No. 3447.

*Decided July 3, 1918.*

NATURAL GAS RATES --1. Natural gas rates increased to meet increased operating costs due to war emergency.

2. Recommended that company dispose of existing artificial plants which are no longer necessary and provision is made for the amortization of these plants over a period of ten years.

*Hunsaker & Britt and Leroy M. Edwards*, for Applicant.

*L. M. Whallon*, appears of counsel for applicant in Application No. 3434.

*Albert Lee Stephens*, city attorney, for City of Los Angeles.

*G. H. Scott*, for City of Santa Ana.

*S. M. Storer*, for Chamber of Commerce of San Pedro.

*A. M. Pence and T. B. Reed*, attorneys, for City of Covina.

*A. J. Spinner*, for City of Seal Beach.

*H. G. Ames*, city attorney, for City of Anaheim and temporarily for City of Fullerton.

*Albert Lanner*, for City of Brea.

*Thomas A. Berkebile*, for City of Monterey Park.

*George L. Hoodnapp*, for City of Long Beach.

*Victor R. McLucas*, for City of Santa Monica.

*Frederick Baker*, for City of Azusa.

*John P. Dunn*, for City of Monrovia.

*Herbert D. Gale and C. W. Hoag*, for City of Culver City and Chamber of Commerce of Culver City.

*W. R. Garrett*, for City of Orange.

*Guerin & Guerin*, for City of Pomona and City of Chino.

*K. M. Ham, Jr.*, for City of Sierra Madre.

*Walter F. Dunn*, for Cities of Arcadia and El Monte.

*F. G. Wingert*, for City of Whittier.

*Arthur L. Veitch*, for City of Venice.

*Thomas H. Lane*, for City of Alamites Beach.

*Henry E. Carter*, for Wilmington Chamber of Commerce.

*James E. Barker*, for Cities of Pomona, Chino, Glendora, Azusa and Covina.

LOVELAND, *Commissioner*.

#### OPINION.

These are the applications of Southern Counties Gas Company requesting the Railroad Commission to establish reasonable rates for natural gas supplied to its eastern and southern districts, and for mixed gas supplied to the western district, which three districts together comprise the entire territory served by applicant.

The proceedings were consolidated and hearings held in Los Angeles, Santa Monica, Long Beach and Santa Ana before Commissioners Loveland and Thelen. These matters were submitted on May 6, 1918, since which date Commissioner Thelen has entered the national service and has resigned from the Railroad Commission.

Applicant's eastern district consists of the Orange County, Whittier, Pomona and Monrovia divisions, all of which are supplied with natural gas obtained mainly from wells in the Coyote Hills Field, at which point the gas costs applicant 10 cents per thousand cubic feet. The southern district, consisting of Long Beach, San Pedro, Wilmington and contiguous territory, is supplied with natural gas purchased from the Southern California Gas Company at Willowville at 19 cents per thousand cubic feet. The western district consists of Santa Monica, Venice, Culver City, Palms, Sawtelle and contiguous territory, all served with mixed gas purchased from the Southern California Gas Company at Sawtelle. The cost of this gas is dependent upon the cost of oil to the latter company, as well as upon the mixture. For the present year, based upon oil at \$1.28 per barrel, and a gas mixture in the proportions of that now being served, the gas is costing \$.289 per thousand cubic feet purchased. This price may be increased materially during 1919, providing the present market price of oil is maintained.

Applicant's properties are the consolidation of a number of artificial gas systems which have been since connected by transmission lines and served with natural gas. The introduction of the natural gas, by reason of its greater heat content, has materially reduced the volumetric consumption and, consequently, applicant's revenues have been reduced. This has been counteracted to some extent, however, by the development of industrial gas sales. Applicant alleges that it is not earning a fair return upon its investment, and asks that just and reasonable rates be fixed.

Applicant sets forth the following statement of capital and earnings for the year ending October 31, 1917, in support of its allegations as to insufficient earnings:

TABLE I.

	Present value of properties	Gross income	Operating expenses	Net revenue	Return for interest and depre- ciation (Per cent)
Southern District ..	\$1,198,378 81	\$260,528 60	\$219,271 15	\$41,267 45	3.50
Eastern District ....	2,196,670 70	416,060 07	288,174 70	157,891 37	7.01
Western District ....	778,525 29	202,791 50	152,961 89	49,829 61	6.29
Totals .....	\$4,173,574 80	\$879,402 17	\$660,410 74	\$248,991 43	5.96

#### Valuation.

Applicant submitted as Exhibits No. 1 and No. 2, valuations compiled by W. A. Baehr, as of February 1, 1916, and January 25, 1916, respectively.

Protestants submitted valuations covering the Pomona and Monrovia divisions of the eastern district, compiled by James E. Barker and F. D. Howell, respectively, valuations of Long Beach, Santa Monica and Venice, compiled by J. M. Berkley, and a valuation of the San Pedro, Wilmington, Sawtelle, Palms and Culver City properties compiled by F. D. Howell.

At the hearing held on May 6th, W. J. Hammand, assistant engineer of the gas and electric department of the Railroad Commission, submitted data which it was stated would be used to compile a valuation of the entire properties. The results of this compilation are as follows:

TABLE II.

Reproduction Value as of January 1, 1918. (Operative property only.)

	Southern District	Eastern District	Western District	General	Total
Landed capital .....	\$13,458	\$22,048	\$8,000	-----	\$43,506
Production capital .....	133,598	330,742	163,428	-----	627,658
Transmission capital ..	75,944	469,744	30,408	-----	576,096
Disbursing capital .....	744,810	1,062,857	460,658	\$14,468	2,282,793
General capital .....	8,362	19,116	11,165	24,209	65,852
Total capital .....	\$977,172	\$1,903,507	\$676,659	\$38,677	\$3,596,015

The above does not include certain parcels of land owned by applicant which are clearly nonoperative, nor has the San Pedro generating plant been included for the same reason.

Of late, applicant's gas sales have been increased manyfold, due chiefly to the extensive use of natural gas for industrial purposes, at a price with which artificial gas could not compete. This has resulted in business

so far in excess of the capacity of the existing artificial gas plants on applicant's system, that these plants are at present of little or no value for standby purposes. After giving this matter due weight, I am of the opinion that it would be to the best interests of the rate payer, as well as to applicant, to dispose of these plants. The high prices now obtaining for the material of which these plants are composed, makes this step most desirable. With these facts in mind, the rates established hereinafter include a sufficient amount to amortize, over a period of ten years, the remaining value of these inadequate plants.

The reproduction values of these plants, to be deducted from the rate base, and the net amounts to be amortized in the rates to be fixed are shown below :

TABLE III.

	Reproduction value	Net amount to be amortized
Eastern District -----	\$208,510 00	\$128,133 00
Southern District -----	78,674 00	47,841 00
Western District -----	85,357 00	55,303 00
<b>Total system -----</b>	<b>\$372,541 00</b>	<b>\$231,277 00</b>

**Rate Base.**

In deriving the rate base, careful consideration has been given to the probable additions and betterments during the next fiscal year, to materials and supplies and to working cash capital in connection with the valuations. Aside from the expected growth of the properties during this period, much consideration must be given to the present and probable future cost of materials, and also to the possibility of curtailing the amount invested in materials and supplies without affecting the service to which the rate payer is entitled. Considerable evidence was submitted regarding the allowance for working cash capital. Applicant has asked for two months' operating expenses, whereas certain of the protestants contended for one month's cost of gas and two months' total of other operating expenses. Allowances have been made herein upon a basis of one and one-half months' total operating expenses. The rate bases finally deduced for the purposes of these proceedings follow :

TABLE IV.

	Amount
Southern District -----	\$1,185,427 00
Eastern District -----	1,965,351 00
Western District -----	670,611 00
<b>Total system -----</b>	<b>\$3,821,389 00</b>

63-41120



**Operating Expenses.**

Operating expenses, as considered herein, include the maintenance of transmission, distribution and general equipment, transmission, distribution, commercial and general expenses, allowances for fire and casualty insurance, uncollectible accounts and state and federal taxes, to which is added the cost of gas purchased. Applicant has already been required to increase salaries and wages to employees, and it is evident that further increases will be necessary in the near future.

In determining the proper maintenance charges, due consideration was given to the recent abnormally high cost in certain districts occasioned by the change from artificial to natural gas. Expenses such as insurance, uncollectible accounts, etc., were based upon the past experience of the company. The sales for the year ending July 1, 1919, were based in the main upon applicant's Exhibit No. 21, which, I believe, to be conservative. A comparison of the sales for the year 1917 and the estimate for the year ending July 1, 1919, follows:

**TABLE V.**

	Sales, 1917, M cubic feet	July 1, 1918, to July 1, 1919, M cubic feet
Southern District .....	441,113.8	915,000
Eastern District .....	965,321.1	1,250,000
Western District .....	206,897.7	219,000
Total system .....	1,613,332.6	2,384,000

We have used a figure for unaccounted-for gas somewhat less than was experienced during the year 1917.

The change from artificial to natural gas is usually followed by a material increase in the loss of gas in a gas distributing system, and attempts to reduce these losses usually require large maintenance expenditures.

Applicant must either be allowed the cost of the gas lost, or an amount sufficient to reduce the losses to normal. I believe that the allowance provided herein will be sufficient to meet the expense of reducing the losses to normal.

In estimating the revenue which the company will need during the year ending July 1, 1919, I have carefully weighed the evidence submitted at the several hearings, and have arrived at an amount which I believe will be sufficient for the company to meet its increased expenses, maintain a high standard of efficiency, and earn an 8 per cent return upon the fair value of its properties in addition to a reasonable allowance for depreciation.

I heartily endorse the views which have been emphatically expressed by the federal administration as to the urgent necessity of carefully

safeguarding the financial stability of our public utilities. Furthermore, in this particular instance, I believe it to be of the utmost importance that rates be so fixed as to encourage the use of natural gas wherever its use will result in the conservation of other fuels, particularly oil, all of which are of such vital importance in the present crisis.

In fixing the rates established in the following order, careful consideration has been given to applicant's segregation of districts. Although managed and operated by the same company, each of the three districts is supplied with gas obtained from an individual source, and the physical properties therein are entirely separate and independent. I am of the opinion that each district should be regarded as a separate entity, and that uniform rates should prevail in each district. This is especially true of the eastern district, where the sources of gas supply may change at any time, due to the developments in other fields.

The minimum charge of the present domestic rates varies from \$.50 to \$1.00 per month. Much testimony and several exhibits were submitted regarding the minimum charge. After analyzing the number of minimum consumers upon applicant's system, and the actual consumer expense, I have decided that too much of the burden is borne by certain other consumers under the existing rates, and that in order that each consumer should bear his just burden, a uniform minimum charge of \$1.00 per meter per month should be made.

The rates set forth in the order hereinafter will provide applicant with a gross revenue of approximately \$1,380,000.00 for the year ending July 1, 1919, which will be sufficient to meet all operating and maintenance expenses, and will provide also for a reasonable depreciation reserve and the necessary amortization funds to wipe out inadequate plants, and pay a return of approximately 8 per cent on the investment.

I submit the following form of order:

#### ORDER.

Southern Counties Gas Company having applied for an order establishing gas rates in its entire territory, public hearings having been held in the above-entitled proceedings, these matters having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates now charged by Southern Counties Gas Company for gas sold are unjust and unreasonable in so far as they differ from the rates hereinafter established, and the rates hereinafter established are just and reasonable.

Basing its order upon the foregoing findings of fact, and on the other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that Southern Counties Gas Company be and is hereby authorized to charge and collect for gas the rates set forth in the

following schedules for the several districts therein indicated, for all regular meter readings taken on and after the 22d day of July, 1918: provided Southern Counties Gas Company shall, within fifteen days of the date of this order, file with the Railroad Commission the schedules of rates set forth herein.

#### Gas Rate Schedules.

The following schedules are based upon the unit of 1,000 cubic feet of gas at 4 oz. above atmospheric pressure:

(a) Rates for entire eastern district, including Orange County, Whittier, Pomona and Monrovia divisions.

##### *Schedule 1-A, Class A—Natural Gas.*

	Per M cubic feet
First 1,000 cubic feet or less per meter per month.....	\$1.00
Next 4,000 cubic feet per month.....	.80
Next 15,000 cubic feet per month.....	.60
Next 30,000 cubic feet per month.....	.50
Next 50,000 cubic feet per month.....	.40
Over 100,000 cubic feet per month.....	.35

This schedule applies to all domestic consumers using gas for any purpose; also to restaurants, apartment houses, hotels, hospitals, sanitarium, business buildings of all kinds, schools, churches and all other consumers who use gas for cooking meals or for heating buildings. Consumers of this class will have priority in the use of gas over consumers of class B, C and D at times when there is insufficient gas to supply the demands of all classes.

A consumer of this class may not demand gas at any time at an unreasonably high rate per hour.

##### *Schedule 1-B, Class B—Natural Gas.*

	Per M cubic feet
First 200,000 cubic feet per meter per month.....	\$0.40
Next 300,000 cubic feet per meter per month.....	.35
Next 500,000 cubic feet per meter per month.....	.30
All over 1,000,000 cubic feet per meter per month.....	.25

Minimum bill, \$5.00 per month per meter from May to October, inclusive; \$1.00 per month per meter from November to April, inclusive.

This schedule applies only to gas used in internal combustion engines.

Consumers of this class will have priority in the use of gas over consumers of class C and D at times when there is insufficient gas to supply the demands of all classes.

##### *Schedule 1-C, Class C—Natural Gas.*

	Per M cubic feet
First 50,000 cubic feet per meter per month.....	\$0.45
Next 150,000 cubic feet per meter per month.....	.35
Next 400,000 cubic feet per meter per month.....	.30
All over 600,000 cubic feet per meter per month.....	.25

Minimum bill, \$15.00 per month per meter from May to October, inclusive; \$1.00 per month per meter from November to April, inclusive.

This schedule applies to gas used by commercial and industrial consumers, whose demand for gas is not dependent upon atmospheric temperature, or upon the preparation of meals, and whose time of maximum demand, if any, does not coincide with the maximum demand hours of class A consumers. It will not be required that consumers of this class be equipped with facilities for using other fuel. This class will include bakeries, packing houses, metal working plants, preserving and canning establishments, fruit and vegetable dryers and other consumers whose load has the characteristics named above.

Consumers of this class will have priority in the use of gas over consumers of class D at times when there is insufficient gas to supply the demands of all classes.

*Schedule 1-D—Natural Gas.*

	Per M cubic feet
First 100,000 cubic feet per meter per month.....	\$0.35
Next 200,000 cubic feet per meter per month.....	.30
All over 300,000 cubic feet per meter per month.....	.25

Minimum bill, \$50.00 per month per meter from May to October, inclusive; \$5.00 per month per meter from November to April, inclusive.

This schedule applies to gas used by those industrial consumers located on existing high pressure mains having a capacity in excess of the present demands of class A, B and C consumers, for the use of steam boilers, incinerators, kilns or similar appliances which are not used to heat buildings or to prepare meals, and which are equipped to use other fuels and can be changed over to use other fuels on 30 minutes notice. At times of gas shortage consumers of this class will be shut off in favor of classes A, B and C. No obligation is undertaken to serve consumers of this class for any period of time.

*Schedule 1-Ds—Special Oil Field Service.*

For Montebello Fields: Straight rate, \$.20 per M. cubic feet.

Minimum monthly charge, \$50.00 per meter installation.

Minimum guaranteed use of gas at each meter installation, \$500.00.

This schedule applies only to consumers who desire to use gas for pumping or drilling oil wells by steam power. It is for the sale of surplus natural gas, and consumers who are supplied under the same, will be subject to shutoff without notice in the event of a threatened or actual shortage of gas, and the company will not be liable for any damages occasioned by shutting off the gas supply. Such consumers will be expected to keep a supply of other fuels on hand.

(b) For southern district, including Long Beach, Seal Beach, Wilmington, San Pedro and adjacent territory.

*Schedule 2-A, Class A—Natural Gas.*

	Per M cubic feet
First 2,000 cubic feet per meter per month.....	\$0.90
Next 8,000 cubic feet per meter per month.....	.75
Next 10,000 cubic feet per meter per month.....	.65
Next 30,000 cubic feet per meter per month.....	.55
Next 50,000 cubic feet per meter per month.....	.50
All over 100,000 cubic feet per meter per month.....	.40

Minimum bill, \$1.00 per month per meter.

This schedule applies to all domestic consumers using gas for any purpose; also to restaurants, apartment houses, hotels, hospitals, sanitarium, business buildings of all kinds, schools, churches, and all other consumers who use gas for cooking meals or for heating purposes.

Consumers of this class will have priority in the use of gas over consumers of class B, C and D at all times when there is insufficient gas to supply the demands of all classes.

A consumer of this class may not demand gas at any time at an unreasonably high rate per hour.

*Schedule 2-B, Class B—Natural Gas.*

	Per M cubic feet
First 50,000 cubic feet per meter per month.....	\$0.55
Next 150,000 cubic feet per meter per month.....	.45
All over 200,000 cubic feet per meter per month.....	.40

Minimum bill, \$5.00 per month per meter from May to October, inclusive; \$1.00 per month per meter from November to April, inclusive.

This schedule applies only to gas used in internal combustion engines.

Consumers of this class will have priority in the use of gas over consumers of class C and D at times when there is insufficient gas to supply the demands of all classes.

*Schedule 2-C, Class C—Natural Gas.*

	Per M cubic feet
First 50,000 cubic feet per meter per month.....	\$0.50
Next 150,000 cubic feet per meter per month.....	.45
Next 300,000 cubic feet per meter per month.....	.40
All over 500,000 cubic feet per meter per month.....	.35

Minimum bill, \$15.00 per month per meter from May to October, inclusive; \$1.00 per month per meter from November to April, inclusive.

This schedule applies to gas used by commercial and industrial consumers, whose demands for gas are not dependent upon atmospheric temperature, or upon the preparation of meals, and whose time of maximum demand, if any, does not coincide with the maximum demand hours of class A consumers. It will not be required that consumers of this class be equipped with facilities for using other fuel. This class will include bakeries, packing houses, metal working plants, preserving and canning establishments, fruit and vegetable dryers, and other consumers whose load has the characteristics named above.

Consumers of this class will have priority in the use of gas over consumers of class D at times when there is insufficient gas to supply the demands of all classes.

This schedule is based upon service at a pressure of 4 ounces above atmospheric; however, providing any consumer requires gas at a greater pressure, and the company is able to furnish same reasonably, the above rate will be increased 1 per cent for each 2 pounds which the average pressure required and delivered exceeds 3 pounds per square inch.

*Schedule 2-D, Class D—Natural Gas.*

	Per M cubic feet
First 500,000 cubic feet per meter per month.....	\$0.40
Next 500,000 cubic feet per meter per month.....	.35
All over 1,000,000 cubic feet per meter per month.....	.30

Minimum bill, \$50.00 per month per meter from May to October, inclusive; \$5.00 per month per meter from November to April, inclusive.

This schedule applies to gas used by those industrial consumers, located on existing high pressure mains having a capacity in excess of the present demands of class A, B and C consumers, for the use of steam boilers, incinerators, kilns or similar appliances which are not used to heat buildings or to prepare meals and which are equipped to use other fuels and can be changed over to use other fuels on 30 minutes notice. At times of gas shortage, consumers of this class will be shut off in favor of classes A, B and C. No obligation is undertaken to serve consumers of this class for any period of time.

(c) Western District, including Santa Monica, Venice, Ocean Park, Culver City, Palms, Sawtelle, and adjacent territory.

*Schedule 3-A, Class A—Mixed Gas.*

	Per M cubic feet
First 2,000 cubic feet per meter per month.....	\$1.15
Next 8,000 cubic feet per meter per month.....	.95
Next 15,000 cubic feet per meter per month.....	.80
Next 25,000 cubic feet per meter per month.....	.70
All over 50,000 cubic feet per meter per month.....	.60

Minimum bill, \$1.00 per month per meter.

This schedule applies to all domestic consumers using gas for any purpose; also to restaurants, apartment houses, hotels, hospitals, sanitarium, business buildings of all kinds, schools, churches, and all other consumers who use gas for cooking meals or for heating buildings.

Consumers of this class will have priority in the use of gas over consumers of class B, C and D at times when there is insufficient gas to supply the demands of all classes.

A consumer of this class may not demand gas at any time at an unreasonably high rate per hour.

*Schedule 3-B, Class B—Mixed Gas.*

	Per M cubic feet
First 50,000 cubic feet per meter per month.....	\$0.60
Next 150,000 cubic feet per meter per month.....	.55
All over 200,000 cubic feet per meter per month.....	.50

Minimum bill, \$5.00 per month per meter from May to October, inclusive; \$1.00 per month per meter, from November to April, inclusive.

This schedule applies only to gas used in internal combustion engines.

Consumers of this class will have priority in the use of gas over consumers of class C and D at times when there is insufficient gas to supply the demands of all classes.

*Schedule 3-C, Class C—Mixed Gas.*

	Per M cubic feet
First 50,000 cubic feet per meter per month.....	\$0.60
Next 150,000 cubic feet per meter per month.....	.55
All over 200,000 cubic feet per meter per month.....	.50

Minimum bill, \$15.00 per month per meter, from May to October, inclusive; \$1.00 per month per meter from November to April, inclusive.

This schedule applies to gas used by commercial and industrial consumers, whose demand for gas is not dependent upon atmospheric temperature or upon the preparation of meals, and whose time of maximum demand, if any, does not coincide with the maximum demand hours of class A consumers. It will not be required that consumers of this class be equipped with facilities for using other fuel. This class will include bakeries, packing houses, metal-working plants, preserving and canning establishments, fruit and vegetable dryers and other consumers whose load has the characteristics named above.

Consumers of this class will have priority in the use of gas over consumers of class D at times when there is insufficient gas to supply the demands of all classes.

*Schedule 3-D, Class D—Mixed Gas.*

	Per M cubic feet
First 100,000 cubic feet per meter per month.....	\$0.55
Next 200,000 cubic feet per meter per month.....	.50
All over 300,000 cubic feet per meter per month.....	.45

Minimum bill, \$50.00 per month per meter, from May to October, inclusive; \$5.00 per month per meter, from November to April.

This schedule applies to gas used by those industrial consumers located on existing high pressure mains having a capacity in excess of the present demands of class A, B and C consumers for the use of steam boilers, incinerators, kilns or similar appliances which are not used to heat buildings or to prepare meals and which are equipped to use other fuels on 30 minutes notice. At times of gas shortage consumers of this class will be shut off in favor of classes A, B and C. No obligations are undertaken to serve consumers of this class for any period of time.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this third day of July, 1918.

DECISION No. 5540.

IN THE MATTER OF THE APPLICATION OF THE UKIAH GAS COMPANY, A CORPORATION, FOR CHANGE IN THE SCHEDULE OF RATES.

Application No. 3489.

*Decided July 3, 1918.*

*George H. Eckert*, for Applicant.

BY THE COMMISSION.

**OPINION.**

This is an application of Ukiah Gas Company for an order authorizing applicant to increase its rates charged for gas.

Applicant alleges in effect that, due to the increase in the cost of oil, materials, supplies, labor and taxes, it will be unable to earn under the present existing rates sufficient moneys to meet operating expenses after the expiration of its present oil contract; and further, that the contract by which it now secures oil at \$1.40 per barrel expires January 1, 1919, after which date the cost of oil delivered at Ukiah will be \$2.40 per barrel.

A hearing in this application was held before Examiner Enecll in the city of Ukiah on May 23, 1918, at which time evidence was introduced, and the matter submitted.

The applicant's gas properties consist of an artificial gas plant located in the city of Ukiah and a distribution system throughout the city of Ukiah and suburbs.

The existing rates of applicant for gas service effective since November 1, 1917, are as follows:

	Monthly consumption	Rate per M. cubic feet
First	500 cubic feet or less per meter per month.....	80 75
Next	4,500 cubic feet per meter per month.....	1 50
Next	5,000 cubic feet per meter per month.....	1 35
Next	5,000 cubic feet per meter per month.....	1 25
Next	15,000 cubic feet per meter per month.....	1 15
	15,000 cubic feet and over on prepayment meter per month.....	1 10

An appraisal of the gas plant and system of the Ukiah Gas Company was made by Mr. W. J. Hammond, assistant engineer of the commission, in April, 1917, and has been brought up to January 1, 1918, from the book accounts of applicant as follows:

Properties as of April, 1917.....	\$35,865 00
Additions and betterments, April, 1917, to January 1, 1918.....	131 55
Properties as of January 1, 1918 .....	\$35,996 55

During the year 1917 applicant served 420 consumers and sold 6,535,300 cubic feet of gas in the manufacture of which 2,411 barrels of oil were used. It received from its business during that year a gross revenue of \$9,560.70, and its operating expenses amounted to \$8,320.18, leaving a net operating revenue, exclusive of depreciation, of \$1,240.52, which is but 3.45 per cent of the plant valuation hereinbefore set forth.

It is probable that the number of consumers served by applicant during 1917 will not be increased in the near future. The gas plant is a small one but is operated with good economy. Applicant's present contract for oil expires January 1, 1919, and it is apparent that if proper relief is not allowed by that time, applicant will be unable to meet operating expenses. At the present time applicant's return is unduly small and even under the existing price of oil an increase is justified.



An increase in applicant's gas rates that would entirely compensate for the higher costs of oil, materials, labor and other operating costs, and which would allow more than a 4 or 5 per cent return for interest and depreciation, would very probably result in a considerable decrease in gas sales. With this fact in mind, and after careful consideration, we are of the opinion that rates set forth in the order herein will result in a maximum degree of relief. The rates hereinafter established should yield applicant an average revenue of \$1.865 per thousand cubic feet sold as compared with a revenue of \$1.46 per thousand cubic feet sold under the existing rates.

#### ORDER.

The Ukiah Gas Company having applied to increase its gas rates, hearings having been held, the matter submitted and now ready for decision, the Railroad Commission finds as a fact that existing rates under present conditions of cost of operation are unreasonable and unjust, and that the rates set forth in this order are just and reasonable.

Basing its order on the foregoing findings of fact and upon the other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the Ukiah Gas Company be and is hereby authorized to charge and collect the following rates for gas, for all regular meter readings taken on and after August 1, 1918, to wit:

	Monthly consumption	Rate per M. cubic feet
First	500 cubic feet or less per meter per month-----	\$1 00
Next	2,500 cubic feet per meter per month-----	1 70
Next	5,000 cubic feet per meter per month-----	1 50
Next	7,000 cubic feet per meter per month-----	1 30
All over	15,000 cubic feet per meter per month-----	1 20

Provided, that the Ukiah Gas Company shall file with the Railroad Commission within ten (10) days of the date of this order the rates herein established.

Dated at San Francisco, California, this third day of July, 1918.

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Decision No. 5542.

IN THE MATTER OF THE APPLICATION OF FOWLER GAS COMPANY,  
A CORPORATION, FOR PERMISSION TO INCREASE RATES FOR  
SERVICE.

-----  
Application No. 3734.

*Decided July 3, 1918.*  
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*Irving P. Allen*, for Applicant.

BY THE COMMISSION.

#### OPINION.

This is an application by the Fowler Gas Company for authority to increase its rates for gas service. A hearing was held at Fowler by

Examiner Myron Westover on June 13, 1918, evidence presented and the matter submitted for decision.

The Fowler Gas Company owns and operates a gas plant and distribution system in the town of Fowler, serving approximately 110 consumers. The total sales of gas average 3,200,000 cubic feet per annum, in the manufacture of which about 1,100 barrels of oil are consumed.

The existing rates charged by applicant for gas as fixed by this commission in its Decision No. 4311, Application No. 2829, dated May 11, 1917, are as follows:

**SCHEDULE "A."**

*General Service.*

Charges to consumers will be computed monthly at the following rates:

First	3,000 cubic feet	-----	\$1 60 per M. cubic feet
Next	4,000 cubic feet	-----	1 35 per M. cubic feet
All over	7,000 cubic feet	-----	1 10 per M. cubic feet

Minimum charge per month for each meter set, \$1.10, excepting in the case of churches and public halls, the minimum charge for which will be 60 cents per month.

A discount of 10 cents per M. cubic feet, or 10 cents minimum charge, will be allowed on all bills paid on or before the tenth of the month following that in which service was rendered.

Prior to February, 1918, applicant purchased oil under contract at a price of 80 cents per barrel f.o.b. Fowler. Since the expiration of this contract the price of oil to applicant has been substantially increased and at May 1, 1918, applicant was paying approximately \$1.70 per barrel, since which date, however, further increases have occurred. Applicant now pays \$1.77 per barrel for oil, and upon expiration of its present contract in February, 1919, will probably be required to pay at least \$2.00 per barrel for oil delivered at its works. On this basis applicant's operating expenses will be increased by the sum of \$1,320.00 per annum for oil alone, and the evidence further shows that applicant's other operating expenses will increase by the sum of at least \$300.00 per annum.

If the entire increase in operating expenses were to be reimbursed by an increase in rates, it would be necessary to increase the rates of applicant by 50 cents per thousand cubic feet. With such an increase, however, we have serious doubts as to applicant's ability to hold its consumers or to maintain the present sales of gas. We are, therefore, of the opinion that it would be unwise to attempt to absorb the entire increase in costs in applicant's rates. A part of the increased cost of service should, however, be borne by applicant's consumers.

If the price of oil and other operation expenses had not increased, applicant's revenue and expenses in 1918 would have been as follows:

Gross revenue under existing rates.....	\$4,750 00
Operating expenses: Oil .....	880 00
All other .....	1,660 00
Taxes, accrued .....	285 00
<hr/>	
Total operating expenses .....	\$2,825 00
Net operating revenue .....	\$1,925 00

With the increases in operating expenses hereinbefore mentioned, applicant's net revenue will be reduced from \$1,925.00 to \$305.00 per annum.

Applicant reports capital installed at December 31, 1917, in the amount of \$20,420.39. A reasonable value of applicant's properties today, as determined by actual cost, would be the sum of \$20,000.00.

The sum of \$600.00 per annum appears to be a reasonable depreciation allowance upon the properties of applicant, which would more than absorb the net revenue of \$305.00 above, and leave applicant with no return on its capital.

It is very evident that applicant's business can not long continue if its earnings are thus curtailed. We find as a fact that the existing rates of applicant are not just or reasonable rates in so far as they do not provide applicant with sufficient return and in so far as they differ from the rates hereinafter fixed.

We believe that applicant's rates should be increased as set forth in the order herein to compensate in part for the added operating expenses.

The revenue to be derived from the rates herein established will be approximately \$6,240.00 per annum, provided no reduction of sales occurs, and the net revenue available for depreciation and return will be \$1,706.00. Deducting the depreciation allowance set forth above from the net revenue to be obtained under the rates hereinafter fixed, there will be available for return the sum of \$1,106.00, which is but 5.53 per cent of applicant's capital.

#### ORDER.

The Fowler Gas Company having applied to this commission for authority to increase its rates for gas, a hearing having been held, the matter being submitted and now ready for decision, we find as a fact that the existing rates for gas charged by applicant are not just, fair and reasonable rates, and that the rates hereinafter established are just, fair and reasonable rates for gas service in the town of Fowler. Basing its order upon the foregoing findings of fact and upon the other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the Fowler Gas Company be and is hereby authorized to charge and collect for gas for all meter readings taken on and after the tenth day of July, 1918, the following rates:

SCHEDULE "B."

*General Service.*

On the basis of monthly consumption per meter.

\$2 10 per 1,000 cubic feet for the first 2,000 cubic feet.

1 50 per 1,000 cubic feet for the next 6,000 cubic feet.

1 30 per 1,000 cubic feet for all over 8,000 cubic feet.

Minimum charge, \$1.10 per month.

Discounts on the above rates as follows:

If the bill is paid on or before the tenth day of the month following the month in which service is rendered, a discount of 10 cents on the minimum bill and 10 cents per 1,000 cubic feet on all bills for consumption in excess of minimum bills.

Provided, the Fowler Gas Company shall, within ten (10) days from the date of this order, file with the Railroad Commission of the state of California the schedule of rates herein established.

Dated at San Francisco, California, this third day of July, 1918.

DECISION No. 5545.

C. CARROLL WHITE ET AL.

vs.

LAGUNA CLIFFS WATER COMPANY.

Case No. 1148.

*Decided July 3, 1918.*

*James S. Bennett*, for Defendant.

BY THE COMMISSION.

OPINION.

This is a complaint brought by fourteen consumers of the Laguna Cliffs Water Company which serves those portions of the unincorporated town of Laguna Beach, Orange County, known as Laguna Cliffs Tract, McKnights Addition and Dobbins Tract.

The complaint alleges in effect that complainants are residents of Laguna Cliffs Tract, McKnights Addition or Dobbins Tract, situated in the unincorporated portion of Orange County known as Laguna Beach, and are consumers of water for domestic and irrigation purposes from the system of the Laguna Cliffs Water Company, a public utility water company.

That during the two years last past the service rendered by defendant has been very poor and has been interrupted frequently, service

being discontinued for as long as six (6) days during the summer when the draft is heavy and the need of water is greatest, said cessation being without warning by the utility; and that the system is inadequate to supply a sufficient quantity of water to meet the needs of its consumers and, especially, those residing on the higher elevations served, roughly defined as that portion of the tracts north of Monterey drive.

Complainants ask that an investigation be made and the utility ordered to make such improvements and additions to its system as are necessary to supply an adequate and sufficient quantity of water to its consumers. Defendant, in its answer, admits that it has heretofore delivered an insufficient quantity of water to adequately supply the needs of its consumers.

The water supply of this system is obtained from dug wells located in the Laguna Canyon, about four (4) miles from Laguna Beach and is transmitted by four-inch (4") riveted steel pipe lines at a distance of approximately four (4) miles, to a 100,000-gallon reservoir and a 20,000-gallon tank located at the northeasterly corner of the tract, whence it is distributed throughout the tract in iron and steel pipes. The right to develop this water was obtained from the Irvine Estate, the agreement providing that the utility may develop water for use within the three above-named tracts exclusively.

The territory served is a sloping mesa overlooking the ocean, the elevation varying from forty feet (40') to two hundred and twenty-five feet (225') above sea level at the ocean. In addition to this mesa, defendant supplies water for a small tract practically at sea level at the mouth of Laguna Creek. The majority of complainants reside in the higher portions of the tract, service heretofore having been particularly inadequate in that portion of the tract northerly of Monterey drive. Frequent interruptions of service have occurred, particularly during the summer season when the demand is largest and the necessity for water greatest. Defendant admits that service has been very poor in this portion of the tract and claims that it is and has been willing to do all within its power to remedy existing conditions, but that the revenue derived from the sale of water has been insufficient to meet operating expenses and that it is financially unable to make the necessary improvements.

Mr. H. G. Heisler, secretary and principal stockholder of the Laguna Cliffs Water Company, testified that he is also an officer and principal owner of the Laguna Cliffs Company, the realty company which owned and marketed the Laguna Cliffs Tract, and that in order to market this tract advantageously it was necessary to develop a supply of water and deliver it to the tract and, finally, that without this

water delivered at present rates, which are \$12.00 per annum per consumer, he would have been unable to successfully carry out his land operations. He contends that the revenue has been insufficient to meet operating expenses alone, totally disregarding the creation of a fund to replace the plant at the end of its life, or interest upon his investment. In order to dispose of his land, he has continued to operate upon this basis, the inevitable result being the deterioration of the system to such an extent that adequate service can not be rendered residents to whom Mr. Heisler sold land and promised an adequate water supply. He now finds himself in the position of having disposed of approximately two-thirds of this realty holdings and with a water system on his hands which requires the expenditure of considerable sums of money, to improve and to replace the present obsolete, depreciated and ineffective water facilities and to remedy the admittedly intolerable conditions which now exist. The system has been permitted to become in this condition because defendant has been primarily operating a land company, and through his desire to market the tract, has operated the system in an inefficient manner and has neglected to adequately provide for its needs, preferring to charge low rates and deliver water through unmetered services as an inducement to prospective land buyers rather than care for the actual needs of the consumers of the water utility.

The tract was laid out in 1906 and 1907 and the water plant installed. It appears that the plan, at that time, was to market the portion of the tract lying nearest the ocean, which is the portion south of Monterey road. The distributing pipe system was installed to meet the needs of these consumers. As the tract developed, prospective land buyers desired homes at higher elevations and land was sold them by Mr. Heisler, lateral pipe mains being extended from the main distributing lines to the prospective consumers at higher elevations. This layout permits of consumers on lower levels taking the entire water supply and depriving those of the consumers residing at higher elevations of water.

No effort has been made to remedy this condition, either by metering or other means until, at this time, the condition has become so intolerable that it is imperative that steps be taken to remedy it.

It developed at the hearing that defendant now proposes to make certain improvements to the system and has made the necessary financial arrangements. These improvements consist of:

- (1) The installation of a pump plant and pipe line to convey water from the reservoir to a tank to be installed at an elevation of approximately 275 feet above sea level, this elevation being some fifty feet above the highest point in the tracts;

(2) The installation of the following pipe lines:

(a) A pipe line 3" in diameter from the proposed tank to the intersection of the existing 2" and 4" pipes on Aster street corner Hill street.

(b) A 1" pipe line from the intersection of two 2" pipe lines at the corner of Hill street and the alley between Holly and Aster streets along Hill street to its intersection with the two (2) inch pipe line extending through block 23.

This it is contended will remedy present inadequate service and provide a circulating system.

The engineer of the Railroad Commission's hydraulic division testified that the four-inch (4") transmission main from the source of water in Laguna Canyon to the reservoir, is in bad condition and should be replaced; that a tank should be erected at approximately two hundred and seventy-five feet (275') elevation, a pumping plant installed to boost water from the transmission main, either from a point in the canyon or the present reservoir, into the tank; that a four-inch (4") pipe line should be installed from the tank, along Hill street to a point in block 31, connecting with the two-inch (2") main ending at that point, and a three-inch (3") pipe line from the reservoir to the intersection of two two-inch (2") pipe lines on Hill street at a point in block 10.

In his opinion, service will be poor at times to those of the consumers residing in the upper portions of the tract even if these improvements are made, unless the system is metered, because of the fact that consumers at lower elevations will, if unrestrained, open all their taps at the same time in order to irrigate their lawns and gardens and supply their domestic needs, and that this is the most important element in improving the system.

It was suggested that if the company is financially unable to install these improvements at the present time, a temporary remedy can be secured by the method advanced by Mr. Heisler, with the additional improvement of metering the entire system.

It is contended by defendant that it is financially unable to construct all of these improvements at this time. It appears that, for this reason, and for the further reasons that the season of heaviest demand is near, and the present high prices of materials owing to war conditions, it is advisable that the plan as outlined by Mr. Heisler, revised as suggested by the engineers of the commission's hydraulic division, be put into effect.

#### ORDER.

Public hearings having been held in the above-entitled proceeding and the case having been submitted, and being now ready for decision, it is hereby found as a fact that the service rendered by the Laguna Cliffs Water Company is inadequate and that an insufficient supply of

water has been delivered by it to meet the needs of its consumers and basing its order on the foregoing finding of facts and all statements of fact set out in the opinion preceeding this order.

*It is hereby ordered* that the Laguna Cliffs Water Company construct within sixty (60) days from the date of this order, the following improvements and additions to its water system:

1. A storage tank of at least 20,000-gallon capacity at an elevation approximately two hundred and seventy-five feet (275') above sea level.
2. A pump plant and pipe line to conduct the water either from its present transmission main, or reservoir into the tank.
3. The following pipe lines:

(a) A pipe line three inches (3") in diameter from the proposed tank to the intersection of the existing 4" and 2" pipe lines at the corner of Aster and Hill streets.

(b) A 1"-pipe line from the intersection of two 2"-pipe lines corner Hill street and the alley extending through block 15 Laguna Cliffs Tract along Hill street to its intersection with the two-inch pipe line extending through block 23, Laguna Cliffs Tract.

*It is hereby further ordered* that the Laguna Cliffs Water Company proceed within sixty days to install meters on service connections and deliver water by measured rates, and shall complete the metering of its entire system within two years from date.

*It is hereby further ordered* that within twenty (20) days from the date of this order the Laguna Cliffs Water Company shall file detailed plans and specifications of the proposed constructions and each thirty days thereafter shall report progress of the construction until its completion.

Dated at San Francisco, California, this third day of July, 1918.

DECISION No. 5550.

C. D. HAZZARD ET AL.

vs.

A. L. AND O. P. PAYNE.

Case No. 1197.

*Decided July 3, 1918.*

*H. B. Wolfe*, for Complainants.

*M. C. Kerr*, for Defendants.

BY THE COMMISSION.

#### OPINION.

This is the complaint of C. D. Hazzard and other citizens of the town of Quincy, Plumas County, alleging that the rates charged by



the Quincy Electric Light and Power Company are excessive and that owing to insufficient capacity, the company is unable to render continuous service through the low water period of each year. They request that reasonable rates be established and that the company be required to render continuous service.

In its answer to the complaint defendant denies that the rates are excessive and admits that power is furnished only for evening and morning lighting service during a certain portion of the year, contending, however, that if the power were available for use during the entire 24 hours the income therefrom would not compensate for the additional service.

The Quincy Electric Light and Power Company is owned by Mrs. A. L. Payne and Mr. O. P. Payne in copartnership agreement. These parties acquired the property in December, 1917, from A. L. Gansner and H. C. Flourney, and attention is called to the fact that this commission has no record of such transfer of interest. The commission's permission is a condition precedent to such a transfer and the authority of the commission should be sought in order that the title to the utility property be perfected in the owners.

Prior to the year 1916 the power plant equipment of this utility consisted of a 75-kilowatt 2,300-volt, 3-phase generator belted to a Pelton waterwheel, operating under a 365-foot head, together with the necessary accessory equipment. In 1916 there was installed a complete and modern unit consisting of a General Electric 100-kva, 3-phase generator direct connected to a Pelton double waterwheel. The new unit is normally operated continuously, the old unit being held in reserve. The station is entirely automatic, requiring only casual attention.

In the year 1916, also, the company's distribution system was practically rebuilt primarily to meet the state law requirements but incidentally eliminating a large amount of line which was in very poor condition. The lines now conform completely to legal requirements and a high standard of construction exists.

There is in evidence an exhibit showing defendant's statement of capital investment, operating revenue, operating expenses, maintenance, and depreciation charges. There are a number of the items that go to make up this statement which we believe should be computed on a more conservative basis.

Applicant's statement as submitted and as adjusted is as follows:

	As submitted	As adjusted
Capital investment .....	\$24,268 94	\$24,268 94
Gross operating revenue (1917).....	6,415 67	6,415 67
Depreciation .....	1,486 56	750 00
Operating and maintenance charges:		
General office .....	\$1,500 00	\$900 00
Electrician .....	1,500 00	1,500 00
Taxes .....	356 07	356 07
Insurance .....	143 34	143 34
Horse and rig.....	360 00	240 00
Water rental .....	360 00	-----
Distribution .....	250 00	250 00
Oil and miscellaneous.....	75 00	75 00
Lamps for street lighting system.....	120 00	120 00
Telephone rental .....	14 42	14 42
Freight and express.....	170 51	75 00
Blacksmithing .....	29 74	29 74
Tools, etc. ....	75 00	75 00
Total operating and maintenance.....	\$4,954 08	\$3,778 57
Gross operating revenue.....	\$6,415 67	\$6,415 67
Operation, maintenance and depreciation.....	6,440 64	4,528 57
Net operating revenue.....	\$*21 97	\$1,887 10

\*Deficit.

It is noted that the company has estimated the sum of \$1,486.56 for depreciation, computed on the straight line basis. We believe that computation on a 4 per cent sinking fund basis would more nearly represent a just allowance, namely, \$750.00. The sum of \$1,500.00 is shown for general office expense. A system with an annual gross revenue of \$7,000.00 or thereabouts, the sum of \$420.00 per annum for manager's services and \$480.00 per annum for bookkeeping and collecting would be fair allowances. The sum of \$360.00 is shown as a charge for the use of a horse and rig. In view of the use this horse and rig is put to in connection with the ranch in which the owners of this company are interested, \$240.00 per annum will be allowed. The sum of \$360.00 claimed as water rental has not been included in previous statements of expenses and there is no evidence to substantiate a value of any water right equivalent to such charge. The sum of \$170.51 is given as an item of freight and express. It is our opinion that \$75.00 per annum would normally cover this item.

Our calculation of \$1,887.10 for net operating revenue represents an earning of 7.78 per cent on capital investment, which amount should be considered reasonable. It appears, therefore, that the complaint of excessive rates is not well founded and should be dismissed.

Throughout the life of this company there has never been any assurance of continuous day service. It is true that such service has been

provided as long as water has been available for the operation of the plant. During a normal year it is estimated that for a period of approximately three months there is available water for the maintenance of lighting service only, and it is then necessary to discontinue at midnight or shortly thereafter. Service is usually again established at 4 a.m. or 4.30 a.m. and continued through the morning lighting hours.

It is apparent that service of this character would not attract a great amount of power business. According to testimony there is some known business anxiously awaiting the advent of dependable day service.

It is estimated that an engine capable of meeting the requirements for giving continuous day power service may be obtained at a cost of approximately \$4,000.00 installed.

Depreciation annuity on this amount is-----	\$134 00
Interest at 8 per cent-----	320 00
Added operating expenses—\$150.00 per month for three months-----	450 00
	<hr/>
	\$904 00

The growth of business in 1917 over 1916, according to the annual report of the company, amounted to \$669.10.

We believe that a vigorous campaign for day power business would produce results that would augment the normal growth of business to an extent that would very justly warrant the installation of gasoline or oil driven auxiliary power equipment. While we advocate day service we do not believe that there is any reasonable demand for lighting service during that portion of the year between the hours of 12.30 a.m. and 4.30 a.m. daily, when the operation of such auxiliary power plant equipment is made necessary by reason of day service requirements and shortage of water.

The company's schedule of rates now in effect provides for general service under one schedule. We believe the rates for power made effective in the following order will materially assist in the development of business.

Evidence in this case has also brought out the fact that part of the schedule as written has resulted in controversy. That part of the schedule reads:

- 12 cents per kilowatt hour for the first 25 kilowatt hours.
- 10 cents per kilowatt hour from 25 to 50 kilowatt hours.

The consumer who has used 26 kilowatt hours, for instance, has claimed that his rate should be 10 cents with a bill of \$2.60. The consumer who uses 25 kilowatt hours, on the other hand, pays a rate of 12 cents with a bill of \$3.00. Such, of course, was not the intent of the schedule, and we believe that it should be rewritten in the form as indicated in the order herewith.

**ORDER.**

A public hearing having been held in the above-entitled proceeding and said proceeding having been submitted and ready for decision, the commission hereby finds as a fact that the revenue of the Quincy Electric Light and Power Company from the rates now in effect is not in excess of a reasonable revenue and that the rates of Quincy Electric Light and Power Company should be revised and restated as set forth in the order herein.

The commission further finds as a fact that Quincy Electric Light and Power Company shall install the necessary equipment to render daylight power service throughout the year.

Basing its order on the foregoing findings of fact,

*It is hereby ordered* that Quincy Electric Light and Power Company charge and collect for electric energy sold by it in the town of Quincy as determined by meter readings made on and after July 1, 1918, the following rates:

**SCHEDULE "A."***Lighting Service.*

First	25 K. W. H. per meter per month	12 cents per K. W. H.
Next	25 K. W. H. per meter per month	10 cents per K. W. H.
Next	25 K. W. H. per meter per month	9 cents per K. W. H.
Next	25 K. W. H. per meter per month	8 cents per K. W. H.
Next	100 K. W. H. per meter per month	7 cents per K. W. H.
All over	200 K. W. H. per meter per month	6 cents per K. W. H.
Minimum bill, 75 cents per meter per month.		

**SCHEDULE "B."***Power Service.*

First	100 K. W. H. per month	6 cents per K. W. H.
Next	100 K. W. H. per month	5 cents per K. W. H.
All over	200 K. W. H. per month	4 cents per K. W. H.
Minimum bill, \$1.50 per horsepower per month.		

*It is hereby further ordered* that Quincy Electric Light and Power Company immediately take steps to install the necessary auxiliary power equipment capable of developing from 75 to 100 horsepower to supplement its power from its hydroelectric plant, the same to be installed within ninety days from the date of this order.

*It is hereby further ordered* that Quincy Electric Light and Power Company shall thereafter render continuous service between the hours of 4:30 a.m. and 12:30 a.m. of the following morning throughout the entire year.

Dated at San Francisco, California, this third day of July, 1918.

## DECISION No. 5551.

IN THE MATTER OF THE APPLICATION OF WILLIAM F. FOWLER,  
RECEIVER OF THE PROPERTY OF THE SACRAMENTO VALLEY  
WEST SIDE CANAL COMPANY, FOR AN ORDER AUTHORIZING AN  
INCREASE IN RATES FOR WATER FOR IRRIGATION.

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Application No. 3369.

*Decided July 3, 1918.*

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BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

This commission having, on June 26, 1918, found that an emergency existed in the supplying of water by Sacramento Valley West Side Canal Company to its consumers, and ordered the company to discontinue the service of water to crops other than rice, and in the same order provided for operation of the system during the period of one week from the date of the order subject to the requirements of a representative of the Federal Food Administrator, and it appearing that the emergency continues with the exception that the water supply is gradually being increased, and that therefore general crop irrigation should be resumed in the order of the crops and individual tracts where the need is greatest,

*It is hereby ordered* that William F. Fowler, as receiver of the property of the Sacramento Valley West Side Canal Company, be and he hereby is authorized and directed to continue operation of said property under the terms of the supplemental order above referred to, with the addition of the following rule:

During one week from the date hereof water shall be furnished to crops other than rice to the extent that there is a supply available without endangering the rice crop, those crops and tracts being first served where the need is greatest, as will be directed by the representative of the Federal Food Administrator.

Dated at San Francisco, California, this third day of July, 1918.

## DECISION No. 5552.

IN THE MATTER OF THE APPLICATION OF FRANK P. CADY AND  
RILLA E. CADY FOR AN ORDER AUTHORIZING A REVISION OF  
CHARGES FOR WATER SERVICE.

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Application No. 3521.

*Decided July 3, 1918.*

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*J. E. Pardo* and *J. A. Pardo*, for Applicants.

*G. C. Julian*, for the town of Susanville and for consumers.

BY THE COMMISSION.

**OPINION.**

In this application, Frank P. Cady and Rilla E. Cady, owners in common of the Susanville Water Works, ask that a revision of rates be made for water sold in Susanville and vicinity, Lassen County. In November, 1915, Decision No. 2905, this commission established the rates which are now being collected by the utility. In the present application the utility alleges that during 1916 and 1917 the revenue decreased and was not sufficient for the annual charges of \$7,100.00 established by the commission as equitable.

A public hearing in this proceeding was held at Susanville May 16, 1918. Evidence was presented in behalf of applicant and of consumers. The evidence showed that the operating revenue in 1917 amounted to \$6,679.72 and the operating expenses and taxes \$2,971.69, of which \$350.00 was extraordinary expense due to the freezing of the pipes not likely to recur for many years. Allowance for interest and depreciation amounted to \$4,460.00 and the apparent deficit \$402.00, which the utility contends should be made up by increased rates. The evidence shows that an increase in the population of the town is expected in the immediate future through completion of a new mill and factory and that there is now a greater population than during 1917. Under these circumstances there should be an increase in revenue during 1918 over that in 1917 without rate change. In the order accompanying this opinion adjustments will be made in the flat rates for residences which, by measure of their number and size, will produce the desired additional revenue. A reduction in the charge above 1,000 cubic feet monthly where the use is for irrigation, we believe, will not decrease the revenue of the company and will encourage increase in the areas devoted to production of foodstuff. The utility made no claim for increased compensation due to additions and betterments to the system since the former proceedings. We believe that the increasing population will provide revenues sufficient for such compensation.

**ORDER.**

Frank P. Cady and Rilla E. Cady having applied to this commission for an order establishing rates for water furnished to the inhabitants of the town of Susanville and contiguous territory in Lassen County, and a public hearing having been held, and the commission being fully advised in the premises, it is hereby found as a fact by the Railroad Commission of the state of California that the rates set out in this order are just and reasonable rates to be charged by applicant to its consumers for water. Basing its order on the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

*It is hereby ordered* that applicant is authorized to file with this commission the following residence and irrigation rates, such rates to take the place of the corresponding items in the present schedule, said rates to become effective July 1, 1918:

*Flat Rates.*

13. Residence rates for five rooms and less.....90 cents  
For each additional room.....15 cents

*Meter Rates.*

- All use above 1,000 cubic feet per month for irrigation purposes .....5 cents per 100 cubic feet

Dated at San Francisco, California, this third day of July, 1918.

DECISION No. 5555.

IN THE MATTER OF THE APPLICATION OF THE PLACENTIA DOMESTIC WATER WORKS FOR AN ORDER AUTHORIZING A CHANGE FROM FLAT RATE TO METER RATES FOR WATER SERVICE.

Application No. 3191.

*Decided July 3, 1918.*

*A. S. Bradford*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Placentia Domestic Water Works, A. S. Bradford, trustee, applicant herein, prays an order establishing a measured rate schedule to be charged for water delivered for domestic uses in and about the unincorporated town of Placentia, Orange County, California.

A public hearing was held upon the application by Examiner Westover at Los Angeles.

The application alleges in effect that, (1) applicant is furnishing water for domestic uses to approximately two hundred consumers and charging therefor at various flat rates ranging from \$1.00 to \$5.00 per month; and (2) that the purpose of asking that a measured rate schedule be established is to conserve the water supply and provide an income adequate to meet expenses of operation, maintenance, depreciation and interest on investment; and asks that a monthly rate of \$1.50 per month for 3,000 gallons or less and 25 cents per 1,000 gallons for water used in excess of 3,000 gallons be established.

The construction of the plant was begun in 1910, at which time the owners purchased a sixty-acre tract, subdivided and marketed it, and

established what is now the town of Placentia. The plant and system was built as a necessary part of a project for the sale of real estate.

The water supply is obtained from wells located within the townsite. It is pumped from these wells into the distribution system of iron and steel pipes through which it is delivered to the consumers. Two 26,000-gallon steel tanks store the surplus of water pumped over that consumed and during periods when the demand is greater than the quantity pumped, make up the deficiency.

Applicant submitted data showing a total cash outlay of \$27,292.55, including a part of the expense of installing meters. This sum also includes a number of pipe lines which have been replaced, a tower and tank which collapsed due to faulty design, and items of maintenance and operation expense.

J. G. Walther and C. H. Loveland of the commission's hydraulic engineering division, submitted an estimated cost of \$22,121.00, including the cost of metering, and it appears that if the items above mentioned which should not be included in an appraisal for rate making purposes be excluded, the resultant cost of plant will approximate that estimated by the commission's engineers.

The commission's hydraulic division report a maintenance and operation expense of \$1,151.00 for 1916 after eliminating such items as are properly chargeable to capital. There will be an increased cost of operation in the future due to the expense of reading and maintaining meters. This increased cost is estimated at \$400.00 annually.

The total annual charge for which income must be provided is as follows:

Interest on \$22,121.00 at 8 per cent .....	\$1,769 00
Sinking fund annuity .....	544 00
Maintenance and operation expense .....	1,551 00
Total .....	\$3,864 00

The rate set out in the order following will produce at least this sum annually.

#### ORDER.

Placentia Domestic Water Works, A. S. Bradford, trustee, having applied to this commission for authority to establish a schedule of measured rates for water sold by it to its consumers, and a hearing having been held and the matter having been submitted, it is hereby found as a fact by the Railroad Commission of the state of California that the measured rate schedule herein established is reasonable, just and remunerative.

*It is hereby ordered* that Placentia Domestic Water Works, A. S. Bradford, trustee, establish and file on or before twenty days from



the date of this order a schedule showing the following measured rates to be charged for water by it to its consumers:

Use per month	Rates.
0-1000 cubic feet .....	20 cents per 100 cubic feet
1000-2000 cubic feet .....	15 cents per 100 cubic feet
Above 2000 cubic feet .....	10 cents per 100 cubic feet
Minimum payment, \$1.00 per month.	

Dated at San Francisco, California, this third day of July, 1918.

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DECISION No. 5556.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY, GREAT WESTERN POWER COMPANY OF CALIFORNIA AND CITY ELECTRIC COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN RATES.

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Application No. 3460.

*Decided July 8, 1918.*

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BY THE COMMISSION.

**SUPPLEMENTAL ORDER.**

The Railroad Commission of the state of California hereby declares that the Great Western Power Company, Great Western Power Company of California, City Electric Company, Consolidated Electric Company and California Electric Generating Company (being affiliated corporations comprising the Great Western Power Company's system), have filed with this commission, under date of July 3, 1918, in accordance with the order in Decision No. 5518 in the above-entitled matter, a stipulation in form and substance satisfactory to this commission.

Dated at San Francisco, California, this eighth day of July, 1918.

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DECISION No. 5557.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING APPLICANT TO INCREASE ITS RATES AND CHARGES FOR ELECTRIC ENERGY.

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Application No. 3459.

*Decided July 8, 1918.*

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BY THE COMMISSION.

**SUPPLEMENTAL ORDER.**

In order to avoid ambiguity and to make more specific the intent of the order in Decision No. 5519, in the above-entitled matter, dated June 27, 1918,

*It is hereby ordered* that said order in Decision No. 5519 be and the same is hereby revised and amended to read as follows:

Pacific Gas and Electric Company having applied to this commission for authority to increase its electric rates, hearings having been held, the matter being submitted in so far as hereinbefore set forth, and being now ready for decision, the Railroad Commission of the state of California hereby finds as a fact that the payment of rates by certain consumers other than filed schedule rates, where such filed schedules apply to their particular class of service, constitutes a discrimination against other consumers purchasing energy under filed schedule rates; that the existing rates for electricity are insufficient to provide the Pacific Gas and Electric Company with an adequate return; and that the existing rates should be increased by the surcharges hereinafter set forth.

Basing its order upon the foregoing findings of fact and the other findings of fact contained in the opinion of June 27, 1918,

*It is hereby ordered* that on and after July 10, 1918, Pacific Gas and Electric Company shall charge and collect for electric energy sold, based on all regular meter readings taken on and after said date, only the schedule rates on file with the Railroad Commission of the state of California, or which may hereafter be filed with the approval of the commission, except for energy sold under special contracts to which no filed schedule of rates apply, as set forth in said opinion of June 27, 1918, in which case existing rates shall be charged; provided, that nothing in the above order shall be construed to prevent Pacific Gas and Electric Company from granting free or reduced rate service to those classes of consumers to whom applicant may grant free or reduced rate service, as set forth in paragraph 5 of General Order No. 45 of this commission.

*It is hereby further ordered* that Pacific Gas and Electric Company be and it is hereby authorized to charge and collect for electric energy sold, based on all meter readings taken on and after July 10, 1918, for metered service rendered and on and after July 1, 1918, for street lighting and flat rate service, in addition to the schedule rates, special contract rates allowed and rates for service to which free or reduced rates may be granted, as specified in the preceding paragraph of this order, the following surcharges, applicable to the classes of service and in the amounts respectively set forth, to wit:

For energy sold for lighting service, including domestic, commercial and municipal metered service, . . . . . 1 cent per kilowatt hour  
For energy sold in the city of San Francisco through one meter for combined light and power service, where the lighting connected load exceeds 75 per cent of the total connected load . . . . . 1 cent per kilowatt hour

For energy sold in the city of San Francisco through  
 one meter for combined light and power service,  
 where the power connected load exceeds 25 per  
 cent of the total connected load-----5 mills per kilowatt hour  
 For energy sold for power service, including heating  
 and cooking -----2 mills per kilowatt hour  
 For energy sold for municipal street lighting, 10 per  
 cent of monthly bills.  
 For energy sold to electric railways-----1 mill per kilowatt hour  
 For energy sold to other electric corporations-----1 mill per kilowatt hour

Provided, that in the case of combined light and power service in the city of San Francisco, the consumer may, at his option, require the installation of separate meters for a determination of the surcharge to be made under separate classification of light and power service.

Provided, further, that Pacific Gas and Electric Company shall, within ten days from June 27, 1918, file with the Railroad Commission of the state of California a statement showing the rates to which each of the surcharges hereinbefore authorized shall apply, which statement shall constitute an amendment to existing rate schedules on file, and that the Pacific Gas and Electric Company shall designate separately on the bills rendered to its consumers for electric energy the amount due it under the authorized surcharges; and further provided, that this order shall not prevent Pacific Gas and Electric Company from hereafter filing new rate schedules subject to the approval of the commission, if such new schedules shall not conflict with the purpose and intent of the provisions of this order.

*It is hereby further ordered* that Pacific Gas and Electric Company shall file with this commission within thirty days from June 27, 1918, and on the first day of each and every month thereafter, a statement of consumers receiving electric service at other than filed schedule rates, together with such other information as this commission shall hereafter designate.

*It is hereby further ordered* that Pacific Gas and Electric Company shall file with the commission on or before the twentieth day of each month, a statement covering its capital expenditures, revenues and expenses for the preceding month and for the period beginning January 1, 1918, and such other information as the commission may hereafter designate.

Dated at San Francisco, California, this eighth day of July, 1918.

## DECISION No. 5558.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA VALLEY  
WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE SALE  
AND ISSUE OF SHARES OF ITS CAPITAL STOCK.

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Application No. 3884.

*Decided July 10, 1918.*

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*C. L. Preisker*, for Applicant.

LOVELAND, *Commissioner*.

**OPINION.**

Santa Maria Valley Warehouse Company asks authority to issue, at par, \$60,000.00 of its common capital stock.

Santa Maria Valley Warehouse Company was organized on or about May 20, 1918, with an authorized capital stock of \$100,000.00 divided into 1,000 shares of the par value of \$100.00 each. It proposes to construct and maintain a reinforced concrete fireproof public warehouse in the city of Santa Maria. The warehouse will be built on a tract of land located at the intersection of the tracks of Santa Maria Valley Railroad and Pacific Coast Railroad. In Exhibit "C" attached to the petition herein applicant reports the amount of money necessary to construct and equip its warehouse as follows:

Estimated cost of warehouse and spur tracks.....	\$37,674 15
Cost of bean cleaning and warehouse equipment.....	7,196 86
Cost of real estate for warehouse site.....	3,000 00
Cost of office building and fixtures.....	2,000 00
Working capital .....	7,500 00
Contingency fund .....	2,628 99
Total .....	<u>\$60,000 00</u>

The testimony shows that applicant has entered into a contract with Marriott and Edwards for the construction of its warehouse and that the contracting firm is in no way interested in the promotion of the warehouse enterprise. The \$7,196.86 representing the estimated cost of bean cleaning and warehouse equipment includes \$5,000.00 for a bean cleaner. Applicant urges that to enable it to conduct its warehouse business properly, the purchase and operation of a bean cleaner is necessary. I believe that applicant should file with the Railroad Commission a stipulation duly authorized by its board of directors agreeing that it, its successors and assigns, will never ask the Railroad Commission or other public body having jurisdiction to include in a rate base the \$5,000.00 or such other amount as may be expended for bean cleaning equipment or other nonpublic utility property.

While applicant has submitted some evidence showing that it will require \$7,500.00 for working capital and that it should be allowed \$2,628.99 for contingencies, I do not regard the showing made sufficient and conclusive. It occurs to me that an allowance of \$7,500.00 for working capital is somewhat large and that the authority to issue stock for working capital and to meet contingencies should be held in abeyance until applicant has furnished the commission with a detailed statement showing that it is necessary for it to issue approximately \$10,100.00 of stock for these purposes. Such statement should show what part of the \$10,100.00 applicant intends to use in public utility business and what part, if any, in connection with bean cleaning and other business not of a public utility nature. The issue of stock for working capital and to meet contingencies, if necessary, will be covered by a supplemental order in this proceeding.

The testimony shows that the Pacific Coast Railroad operates a public warehouse at a point one-half mile north of the place where its line crosses the line of the Santa Maria Valley Railroad; that the Southern Pacific Milling Company operates a public warehouse three-fourths of a mile east of the place where the two railroads intersect; that no public warehouse is located at the intersection of the tracks of the two railroads; that the producers are unable to take advantage of both railroads if their products are stored in either one or the other warehouse now being operated in the city of Santa Maria without transporting the products from one to the other by vehicles; that the Pacific Coast Railroad operates over a narrow gauge track while the Santa Maria Valley Railroad operates over a broad gauge track, which makes it impossible to switch cars from one to the other; that the present warehouse and bean cleaning facilities in Santa Maria are inadequate.

Applicant reports that all the preliminary construction work has been done and that if it is authorized to issue \$60,000.00 of stock it can complete its warehouse before this year's bean crop is harvested. Mr. B. F. Marshall, treasurer of Santa Maria Valley Warehouse Company, testified that the company has received subscriptions for about \$40,000.00 of its stock and that in his opinion it will be able to sell all of the \$60,000.00 of stock at par.

I herewith submit the following form of order:

#### ORDER.

Santa Maria Valley Warehouse Company having applied to the Railroad Commission for authority to issue \$60,000.00 of stock, a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by the issue of \$49,900.00 of stock is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Santa Maria Valley Warehouse Company be and it is hereby granted authority to issue and sell for cash, at not less than par, \$49,900.00 of its common capital stock, upon the following conditions:

1. The proceeds obtained from the sale of the stock herein authorized shall be used by applicant for the following purposes:

To construct warehouse and spur track-----	\$37,674 15
To acquire bean cleaner and warehouse equipment-----	7,196 86
To acquire real estate for warehouse site-----	3,000 00
To construct office building and purchase fixtures -----	2,000 00
Miscellaneous -----	28 99
Total -----	<u>\$49,900 00</u>

2. The authority herein granted shall not become effective until Santa Maria Valley Warehouse Company has filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Santa Maria Valley Warehouse Company, its successors and assigns, will never urge the Railroad Commission or other public body having jurisdiction to include in a rate base, \$5,000.00 or such other amount as may be expended for bean cleaning or other equipment not used in public utility business, and a supplemental order made reciting that such stipulation satisfactory in form has been filed in this proceeding.

3. On or before the twenty-fifth day of each month applicant shall file with the Railroad Commission such statements as are required by the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall apply only to such stock as may be issued on or before December 15, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this tenth day of July, 1918.

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DECISION No. 5566.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND  
EASTERN RAILWAY TO ISSUE CERTAIN NOTES.

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Application No. 3777.

*Decided July 10, 1918.*

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*Jesse H. Steinhart*, for Applicant.

GORDON, *Commissioner*.

#### OPINION.

On September 1, 1914, Oakland, Antioch and Eastern Railway issued to Union Trust Company of San Francisco its \$20,000.00 6 per cent

demand note. On September 17, 1914, Oakland, Antioch and Eastern Railway issued to Union Trust Company of San Francisco its \$5,000.00 6 per cent demand note. On the former note there is now due \$14,550.55, on the latter \$362.80. Oakland, Antioch and Eastern Railway asks authority to issue new 6 per cent notes for a term of one year or less for the purpose of paying or refunding the balance due on the aforementioned notes.

The testimony shows that the funds obtained through the issue of the notes were used for capital purposes.

Applicant reports that pursuant to the authority granted in Decision No. 891, dated August 19, 1913, it pledged as collateral first mortgage bonds to secure the payment of the notes referred to above, and that as payments have been made on the notes a proper proportion of the bonds have been returned to applicant's treasury. Applicant desires authority to reissue the bonds now pledged as collateral.

I herewith submit the following form of order:

#### ORDER.

Oakland, Antioch and Eastern Railway having applied to the Railroad Commission for authority to issue notes and to issue and pledge bonds as collateral to secure the payment of said notes, a hearing having been held, and it appearing that the money, property or labor to be procured by the issue of the notes is reasonably required for the purpose or purposes specified in the order herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Oakland, Antioch and Eastern Railway be and it is hereby granted authority to issue, at par, to Union Trust Company of San Francisco, its 6 per cent promissory note, payable within one year or less, for the principal sum of \$14,550.55; to issue, at par, to Union Trust Company of San Francisco its 6 per cent promissory note payable within one year or less for the principal sum of \$362.80, and to secure the payment of said notes by issuing and pledging as collateral first mortgage bonds in the proportion of \$100.00 of bonds for each \$60.00 of notes herein authorized to be issued, provided that as payments are made on said notes a proper proportion of the bonds shall be returned to applicant's treasury and hereafter issued only as authorized by the Railroad Commission.

The authority herein granted is upon the following conditions and not otherwise:

1. Oakland, Antioch and Eastern Railway shall file monthly reports as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue notes and bonds shall not become effective until Oakland, Antioch and Eastern Railway has paid the fee specified in section 57 of the Public Utilities Act.

3. The authority herein granted shall apply only to such notes or bonds as may be issued on or before October 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this tenth day of July, 1918.

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DECISION No. 5568.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED TERMINALS COMPANY AND CHINA BASIN WAREHOUSE COMPANY FOR PERMISSION TO ACQUIRE THE BUSINESS, FRANCHISE, ETC., OF CHINA BASIN WAREHOUSE COMPANY AND FOR THE ISSUANCE OF THE STOCK OF ASSOCIATED TERMINALS COMPANY TO CHINA BASIN WAREHOUSE COMPANY AND THE APPLICATION OF ASSOCIATED TERMINALS COMPANY AND HARBOR WAREHOUSE COMPANY TO RENT CERTAIN PROPERTIES OF HARBOR WAREHOUSE COMPANY.

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Application No. 3816.

*Decided July 15, 1918.*

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*Nathan H. Frank and Irving H. Frank, by Irving H. Frank, for Applicants.*

BY THE COMMISSION.

**OPINION.**

In this application, Associated Terminals Company asks authority to issue \$159,500.00 of common capital stock to acquire the properties of China Basin Warehouse Company and to lease certain properties of the Harbor Warehouse Company. Both the China Basin Warehouse Company and the Harbor Warehouse Company join in the application.

A hearing was held thereon in San Francisco on June 28, 1918, before Examiner Westover.

China Basin Warehouse Company was organized under the name of the Barneson-Hibberd Warehouse Company in 1906. On September 5, 1916, its name was changed by order of court to China Basin Warehouse Company. The company has an authorized capital stock of \$250,000.00, divided into 2,500 shares of the par value of \$100.00 per share. Of this stock \$159,500.00, par value, has been issued and is now outstanding.

In Exhibit "B," attached to the petition herein, applicant reports the earnings of the China Basin Warehouse Company for the twelve months



ended December 31, 1917, and the four months ended April 30, 1918, as follows:

Item	Four months ended April 30, 1918	Twelve months ended Decem- ber 31, 1917
<b>Revenues—</b>		
Warehouses—storage, weighers, etc.....	\$52,052 67	\$118,510 20
Warehouses—cleaners .....	4,555 48	7,343 31
Wharves .....	53,508 50	123,421 08
<b>Totals .....</b>	<b>\$110,116 65</b>	<b>\$250,274 59</b>
<b>Expenses—</b>		
Warehouses—storage, weighers, etc.....	\$36,104 42	\$97,313 40
Warehouses—cleaners .....	3,156 52	7,915 72
Wharves .....	43,148 15	110,879 39
<b>Totals .....</b>	<b>\$82,409 09</b>	<b>\$216,108 51</b>
<b>Net income from operations.....</b>	<b>\$27,707 56</b>	<b>\$43,166 08</b>
<b>Other income—</b>		
Sale of empty cars.....		\$1,120 73
Miscellaneous .....	\$215 29	13 77
<b>Totals .....</b>	<b>\$215 29</b>	<b>\$1,134 50</b>
<b>Gross income .....</b>	<b>\$27,922 85</b>	<b>\$44,300 58</b>
<b>Deductions—</b>		
Commission - Barneson-Hibberd Company .....	\$4,069 99	\$6,154 13
Reserve for taxes.....		4,328 32
Reserve for depreciation.....	3,440 00	9,795 00
Miscellaneous .....	613 28	364 02
<b>Totals .....</b>	<b>\$8,123 27</b>	<b>\$20,641 47</b>
<b>Net income for the period.....</b>	<b>\$19,799 58</b>	<b>\$23,659 11</b>
<b>Profit and loss charges—</b>		
Deficit at beginning of period.....	\$6,575 97	\$15,275 08
Dividends .....	6,380 00	12,760 00
Reserve for uncollectible accounts.....		2,200 00
<b>Totals .....</b>	<b>\$12,955 97</b>	<b>\$30,235 08</b>
<b>Surplus end of period.....</b>	<b>\$6,843 61</b>	<b>*\$6,575 97</b>

\*Deficit.

In Exhibit "A," attached to the petition herein, China Basin Warehouse Company reports its assets and liabilities as of April 30, 1918, as follows:

*Assets.*

*Plant, property and equipment.*

Buildings and yards .....	\$126,086 63
Equipment .....	53,534 79
Automobiles .....	3,338 46
<b>Total plant, property and equipment.....</b>	<b>\$182,959 88</b>
<b>Investment—U. S. Liberty Bonds .....</b>	<b>3,500 00</b>

*Current assets.*

Cash -----	\$4,247 38
Accounts receivable -----	52,687 11
Advances on unclaimed freight -----	1,736 72
Total current assets -----	\$58,671 21
Unpaid stock subscriptions -----	9,930 00

*Deferred charges.*

Insurance premiums—unexpired -----	\$1,559 14
Expenses applicable to future period -----	4,409 65
Total deferred charges -----	\$5,968 79
Total assets -----	\$261,029 88

*Liabilities.**Capital stock.*

Authorized, 2,500 shares of \$100.00 -----	\$250,000 00
Unissued—905 shares of \$100.00 -----	90,500 00
Outstanding -----	\$159,500 00

*Current liabilities.*

Notes payable -----	
Accounts payable -----	\$25,703 59
Barneson-Hibberd Company commission -----	1,033 60
Total current liabilities -----	\$26,737 19
Taxes accrued—not due -----	4,301 89

*Reserves.*

Depreciation -----	\$61,447 28
Uncollectible accounts -----	2,200 00
Total reserves -----	\$63,647 28
Surplus -----	6,843 61
Total liabilities -----	\$261,029 88

The sum of \$9,930.00, shown above, due on stock subscriptions, is said to represent the balance due on stock issued in 1908 to John Barneson, trustee. H. S. Scott, secretary of China Basin Warehouse Company, reports that John Barneson will at once pay into the treasury of the company, the balance due on the stock. The order herein will provide that the \$9,930.00 shall be expended only for such purposes as are hereafter authorized by the commission.

Associated Terminals Company has an authorized capital stock of \$250,000.00, divided into 2,500 shares of the par value of \$100.00 each, of which it wishes to now issue \$159,500.00 par value to acquire the properties of the China Basin Warehouse Company. It agrees to assume all of the debts, obligations, contracts and liabilities of the China Basin Warehouse Company and to hold China Basin Warehouse Company harmless from any claim or liability whatsoever connected with or arising out of such debts, obligations, contracts or liabilities.

Upon receipt of the \$159,500.00 of stock in exchange for its properties the China Basin Warehouse Company will distribute the stock to its stockholders, share for share, in exchange for their present stock. The transfer of these properties will not change the control of the properties. The chief purpose of the transfer, according to the testimony, is to effect a change in the name of the corporation under which the properties are being operated.

China Basin Warehouse Company asks authority to sell its properties to the Associated Terminals Company, while the Harbor Warehouse Company asks permission to lease its warehouses Nos. 1 and 2 to the Associated Terminals Company. Warehouse corporations may sell or lease their properties without an order from the Railroad Commission. Therefore, that portion of the application relating to the sale and lease of properties may be dismissed.

#### ORDER.

Associated Terminals Company having applied to the Railroad Commission for authority to issue \$159,500.00 of its common capital stock, as indicated in the foregoing opinion, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified in the order and that the expenditures for such purposes are not reasonably chargeable in whole or in part to operating expenses or to income,

*It is hereby ordered* that Associated Terminals Company be and it is hereby granted authority to issue \$159,500.00 of its common capital stock to acquire the properties of the China Basin Warehouse Company, including \$9,930.00 cash paid in on account of stock subscriptions, upon the following conditions:

1. Associated Terminals Company shall assume all of the debts, obligations, contracts and liabilities of the China Basin Warehouse Company and shall hold said China Basin Warehouse Company harmless from any claim or liability whatsoever connected with or arising out of said debts, obligations, contracts or liabilities.

2. The \$9,930.00 paid into the treasury of the China Basin Warehouse Company, referred to in the opinion, shall be expended only for such purposes as are hereafter authorized by the Railroad Commission.

3. The price at which Associated Terminals Company is herein authorized to purchase the properties of the China Basin Warehouse Company shall not be considered before this commission, or any other public body, as a measure of value of said properties for rate fixing or any purpose other than the transfer of the properties under the facts and circumstances set forth in the testimony in this proceeding.

4. Within thirty days after the issue of the stock herein authorized Associated Terminals Company shall file with the Railroad Commission a certified copy of the deed of conveyance.

5. Associated Terminals Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission, in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted to issue stock shall apply only to such stock as may be issued on or before November 1, 1918.

*It is hereby further ordered* that that portion of the application relating to the sale of the properties of China Basin Warehouse Company and the lease of properties of Harbor Warehouse Company be and the same is hereby dismissed.

Dated at San Francisco, California, this fifteenth day of July, 1918.

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DECISION No. 5569.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA TRACTION COMPANY FOR AUTHORITY TO INCREASE PASSENGER RATES, FARES AND CHARGES.

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Application No. 3882.

*Decided July 15, 1918.*

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Railroad company not under the federal administration authorized to increase passenger fares to the level of federal railroads as represented in General Order No. 28 of the Federal Railroad Administration.

*Sanborn & Rochl* and *Arthur L. Levinsky*, for Applicant.

GORDON, *Commissioner*.

**OPINION.**

This is an application by the Central California Traction Company for permission under section 63 of the Public Utilities Act to increase its passenger fares to the basis of fares effective June 10, 1918, on federal controlled railroads by order of Director General of Railroads, as per his General Order No. 28, issued May 25, 1918.

The important changes proposed are as follows:

Increase of all one-way fares to 3 cents per mile, cancellation of all round trip fares and the increasing by 10 per cent of all monthly commutation fares.

There will also be minor changes—increasing party fares and charges for the transportation of excess baggage, but these services are seldom

performed by applicant and will have no effect upon its passenger earnings.

One-way fares between intermediate points are now practically on a 3-cent basis and the increase in revenue involving this transportation will be very small. The principal changes proposed are those brought about by the cancellation of round trip fares and increasing by 10 per cent commutation fares. The proposed rates would give to applicant an increase of approximately \$11,000.00 per annum, provided the same number of passengers traveled under the new rates; however, experience has proven that when rates are increased the volume of traffic decreases and, without doubt, the added revenue will be much less than estimated in the exhibits filed at the hearing.

Applicant was incorporated as the Central California Traction Company, August 7, 1905, and had invested December 31, 1917, according to annual reports on file with this commission, \$4,033,370.68; on the same date there was a funded indebtedness of \$1,490,000.00 and notes payable to different banks and electric companies of \$428,750.00

Applicant operates an electric railway between Stockton and Sacramento, with a branch line to Lodi, and is in direct competition with the Southern Pacific Company and the Western Pacific Railroad Company now operated by the federal government; these lines are charging and have been charging since June 10, 1918, the rates applicant now desires to put into effect via its line between the same points. Competition is also met from a number of well-established automobile transportation companies.

Exhibits were presented showing revenue and expenses for the years 1914-15-16-17 and the first four months of 1918. It is unnecessary to reproduce the figures in detail; they were checked by the commission's auditor and agree with annual reports on file in this office. It is shown the net results for the fiscal years ending June 30, were as follows: 1914—profit, \$8,935.37; 1915—loss, \$33,864.05, and 1916—loss, \$77,936.37; for the first four months of the year 1918 a loss of \$19,137.16.

In the year 1916 the system of accounting was changed from fiscal year, ending June 30, to calendar year, ending December 31. For the calendar year ending December 31, 1916, the net loss was \$104,073.57 and for 1917 there was a net profit of \$1,618.16.

The financial results of 1917 were made possible, first, by legislation regulating automobile transportation companies, thus materially adding to rail carriers' passenger receipts; second, an unusual and large movement of fruit and vegetables to both local and transcontinental destinations, and third, an agreement entered into in February, 1917, between a majority of the bondholders and the Central California Traction Company whereby the bondholders accepted as payment in full for the years 1917, 1918 and 1919 interest at the rate of 2 per cent per annum

instead of 5 per cent per annum provided in the bond contracts. This reduced the interest on funded indebtedness from \$75,502.50 in 1916 to \$30,569.94 in 1917 and, no doubt, prevented applicant from going into the hands of a receiver. The interest on notes payable in 1917 amounted to \$26,299.47; this was not changed.

A witness for applicant testified that because of the policy adopted by directors of federal controlled railroads in routing all freight tonnage via the shortest possible mileage, his company would be deprived of traffic moving to or from points north of Sacramento heretofore turned over to The Atchison, Topeka and Santa Fe Railway Company at Stockton and that the loss in revenue because of the change would approximate \$40,000.00 per annum.

No dividends have ever been declared by this company. Three assessments of \$5.00 each have been levied; two have been paid and one is now in process of collection. The balance sheet of April 30, 1918, shows, in addition to the loan secured by notes amounting to \$428,750.00, that there were floating debts, unsecured, amounting to \$244,978.62. No salaries, or fees, are paid to any executive officer or to members of the board of directors and, apparently, the properties are being operated in a most careful and economical manner.

The present cost of materials, labor and fuel is greatly in excess of the prices paid in the year 1917 and from the results obtained for the first four months of the current year it is clearly apparent this applicant cannot meet its operating expenses and pay the interest on its bonds and notes payable under the rates now in effect.

This commission recently authorized applicant to increase freight rates by 25 per cent, in order to place them on a parity with the freight rates established by Director General McAdoo on the competing federal railroads, Southern Pacific and Western Pacific, and these increases in rates will be of material benefit, provided applicant can secure the same tonnage as handled in previous year, but this relief will not be possible, for the reason as heretofore stated, that the Central California Traction Company will no longer be used as a link in the transportation of through traffic in connection with The Atchison, Topeka and Santa Fe.

The evidence and the reports of applicant substantiate the claims that present passenger fares are unjust and unreasonable and insufficient to yield reasonable compensation for the services performed under the existing war conditions and costs of operation.

I am of the opinion that the application should be granted.

#### **ORDER.**

The Central California Traction Company having applied to this commission for permission to increase its passenger fares to the basis of the fares made effective June 10, 1918, on federal controlled railroads

by the Director General's Order No. 28, and a public hearing having been held and the Railroad Commission being fully apprised in the premises, it hereby finds as a fact that the existing passenger fares of petitioner are unremunerative and the rates proposed in this application are just and reasonable.

*It is hereby ordered* that the Central California Traction Company be and the same is hereby authorized, within twenty (20) days from the date of this order, to file with the Railroad Commission and thereafter charge passenger fares not in excess of those put into effect June 10, 1918, on federal controlled railroads, as per the Director General's Order No. 28.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifteenth day of July, 1918.

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DECISION No. 5573.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON THREE HUNDRED THIRTY-SEVEN FEET OF TRACK AT THE END OF ITS SAN ANTONIO HEIGHTS LINE, SAN BERNARDINO COUNTY.

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Application No. 3859.

*Decided July 15, 1918.*

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BY THE COMMISSION.

**ORDER.**

Pacific Electric Railway Company has applied for an order authorizing the abandonment and removal of three hundred thirty-seven feet of track located at the end of the San Antonio Heights line in San Antonio Heights Park, San Bernardino County.

The track proposed to be removed is located at the extreme end of the San Antonio Heights line as shown on blue print M. W. H. 2969, marked Exhibit "A," and attached to the application in this proceeding.

An inspection having been made and the commission being fully advised and of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that this application be and the same hereby is granted.

Dated at San Francisco, California, this fifteenth day of July, 1918.

## DECISION No. 5588.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED

## Application No. 3831.

GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE AND  
PLEDGE BONDS SECURING AN ISSUE OF NOTES AND TO ISSUE,  
SELL AND DISPOSE OF SUCH NOTES.

*Decided July 17, 1918.*

*Chickering & Gregory and Sweet, Stearns & Forward, by Allen Chickering, for Applicant.*

BY THE COMMISSION.

**SUPPLEMENTAL OPINION.**

This is a decision upon the application of the San Diego Consolidated Gas and Electric Company to amend order in Application No. 3831, Decision No. 5502.

Under said decision, after hearing, applicant was authorized to issue \$652,800.00 of 5 per cent collateral trust 6 per cent gold notes, payable July 1, 1923, and to issue and pledge as security for the payment of said notes \$816,000.00 of its first mortgage 5 per cent thirty-year gold bonds, payable March 1, 1939. Said authority was granted upon the following conditions:

(1) That of the notes authorized \$400,000.00 face value should be deposited with the trustee under an agreement authorized by the same decision for the purpose of paying or refunding \$400,000.00 of two-year 6 per cent notes, payable September 1, 1919.

(2) The remainder of the notes—\$252,800.00 face value—was to be sold for not less than 95 per cent of their face value plus accrued interest.

Applicant now represents that it may be impossible, in all cases, to make the exchange of five-year 6 per cent collateral notes for the two-year 6 per cent collateral notes, and asks that it be authorized to sell all or any part of the \$400,000.00 6 per cent five-year collateral notes at 95 per cent of their face value, the proceeds to be used only for the purchase of the \$400,000.00 par value outstanding two-year 6 per cent notes.

We find that such permission should be granted and provide for it in the following order:

**ORDER.**

Whereas the San Diego Consolidated Gas and Electric Company has asked to have the opinion in Application No. 3831, Decision No. 5502, amended, authorizing it to sell certain securities instead of exchanging them, as set forth in the opinion preceding this order; and

Whereas the commission has found that such authority should be given,

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Applicant, the San Diego Consolidated Gas and Electric Company, is hereby authorized to sell all or any part of the \$400,000.00 6 per cent five-year collateral notes which the commission, under Decision No. 5502, in Application No. 3831, authorized it to exchange for the two-year 6 per cent collateral notes at 95 per cent of their face value, proceeds to be used only for the purchase of \$400,000.00 par value outstanding two-year 6 per cent notes.

Dated at San Francisco, California, this seventeenth day of July, 1918.

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DECISION No. 5590.  
TOWN OF CORTE MADERA  
*vs.*  
PACIFIC GAS AND ELECTRIC COMPANY.

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Case No. 1099.

*Decided July 17, 1918.*

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EXTENSIONS.—Request for extension of gas mains is denied as unreasonable because of the difficulty in procuring materials, labor and supplies due to the war emergency.

*John J. Mazza*, attorney, for Town of Corte Madera.  
*C. P. Cutten*, for Defendant.

BY THE COMMISSION.

**OPINION.**

This is a complaint filed by the town of Corte Madera against the Pacific Gas and Electric Company requesting that defendant be ordered to extend its gas mains to serve said town.

Defendant, in its answer, alleges, in effect, that to extend gas service to the town of Corte Madera, as requested in the complaint, would entail a capital expenditure of approximately \$14,000.00. Defendant further alleges that the annual revenue from the extension would not exceed \$2,700.00, which it is alleged would be insufficient to pay a fair or reasonable return to defendant for its investment.

A hearing was held in this matter before Examiner Encell in Corte Madera, at which time testimony and evidence were taken and the matter submitted.

From evidence submitted by complainant, it seems probable that something over 100 consumers could be obtained from within a limited area.

Defendant submitted an exhibit from which it attempted to show that the revenue from 100 consumers would amount to \$2,165.00 per year, and the expenses, including depreciation at 4.58 per cent, \$2,364.61.

leaving a deficit of \$199.61. Defendant also submitted an exhibit in which it estimated that the cost of the necessary extension would be \$14,646.94.

Although we can not subscribe to some of the items in defendant's exhibits, particularly those items having to do with the estimates of expenses, and depreciation annuity, we do believe that it is apparent from the evidence submitted that a fair return could not be expected from this extension for a considerable period in the future.

This matter has been held in abeyance for several months with the hope that economic conditions would improve to such an extent that we could feel justified in ordering defendant to make the necessary investment. However, conditions have rapidly become more tense, until at present it is not only very difficult for defendant to obtain pipe, except for use in the most urgent cases, but other serious problems have arisen such as financing, wage increases and a rapidly rising oil cost. The commission's Decision No. 5439, issued May 28, 1918, increasing the gas rates, will compensate for certain increases, but the earning capacity of this extension would be altered but little thereby.

We believe in this case that during the present war emergency the making of the extension should be postponed until such a time as material, labor and finances can be more readily obtained, in order that labor, materials and also the financial status of the utility may be conserved for use in supplying the essential war requirements which are taxing the utility's ability to serve.

#### ORDER.

Hearing having been held, the matter having been submitted, and being now ready for decision, the Railroad Commission of the state of California finds as a fact that, during the present war emergency, it is not reasonable to require that the Pacific Gas and Electric Company construct gas mains to serve the inhabitants of Corte Madera.

Basing its order on the foregoing finding of fact, and upon other findings of fact which precedes this order,

*It is hereby ordered* that the complaint in this matter be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this seventeenth day of July, 1918.

## DECISION No. 5596.

IN THE MATTER OF THE PETITION OF THE MADERA GAS COMPANY  
FOR AUTHORITY TO INCREASE ITS RATES TO CONSUMERS.

Application No. 3792.

*Decided July 17, 1918.**George W. Kitchen, for Applicant.*

BY THE COMMISSION.

**OPINION.**

This is an application of Madera Gas Company for an order authorizing applicant to increase its rates charged for gas.

Applicant alleges in effect that, due to increased cost of oil, labor and taxes, it will under the existing rates be unable to meet operating expenses. Applicant further alleges that the contract under which it has been purchasing oil at the rate of 81 cents per barrel expired on June 23, 1918, and after this date the price of oil delivered at Madera became about \$1.90 per barrel.

A hearing on the application was held before Examiner Westover in the city of Madera on June 13, 1918, at which time testimony and evidence were introduced and the matter was submitted.

Applicant's gas properties consist of an artificial gas generating plant and distribution system situated in the city of Madera. The existing rates of applicant for gas service consist of a gross rate to which discounts are applied varying with amount of consumption and may be stated as follows:

For a consumption of between 1 and 10,000 cubic feet per meter per month the gross rate is \$1.75 per thousand cubic feet with a discount varying from 25 cents to 40 cents per thousand cubic feet, provided the bill is paid on or before the twelfth of each month.

For a consumption of 10,000 cubic feet or over per meter per month, the rate is \$1.00 per thousand cubic feet with no discount.

The minimum charge is \$1.00 per meter per month.

A valuation of applicant's properties made in December, 1916, by Mr. W. J. Hammond, assistant engineer of the gas and electric division of the Railroad Commission, with additions and betterments to June 1, 1918, is as follows:

Valuations as of January 1, 1917-----	\$64,934 00
Additions and betterments—January 1, 1917, to January 1, 1918—	4,774 02
Valuations as of January 1, 1918-----	\$69,708 02
Additions and betterments—January 1, 1918, to June 1, 1918----	576 56
Valuation as of June 1, 1918-----	\$70,284 58

During the year 1917 applicant served 405 consumers and sold 11,000,000 cubic feet of gas in the manufacture of which 4,238 barrels of oil were used.

The following is a statement of the earnings of applicant for the year 1917, as set forth in its annual report filed with the Railroad Commission:

Gross operating revenue.....	\$14,939 98
Operating expenses, exclusive of depreciation.....	11,170 92
Net operating expenses, exclusive of depreciation.....	\$3,769 92

The above net operating revenue gives, for the year 1917, a return of 5.4 per cent of the plant valuation shown above.

Applicant's plant is operated with an oil duty of approximately 16 gallons of oil per thousand cubic feet of gas sold. We believe that applicant should be able to reduce this duty to between 14 and 15 gallons per thousand cubic feet sold. It is probable that in the future there will be very little increase in the number of consumers over the number now served by applicant.

It is apparent from the fact that applicant's contract for oil expired on June 23, 1918, and from the present increased price of oil to \$2.00 per barrel delivered at Madera, which amounts to an increase of approximately 45 cents per thousand cubic feet of gas sold, that if proper relief is not given, applicant will not be able to meet operating expenses during the coming year.

With these facts in mind and after careful consideration of the cost and value of service, we are of the opinion that rates as set forth in the order herein will give as reasonable relief to applicant as is possible under present conditions, and, at the same time, will distribute the burden equitably among the various consumers.

Applicant wishes that the discount form of rate be granted in order that collection expenses will be reduced to a minimum, and we have included in the rates a discount which, in our opinion, will accomplish the desired result.

The rates hereafter established should yield applicant sufficient revenue to meet the increased cost of oil, labor, taxes and other operating expenses and pay a return on fair valuation approximating that which was earned in 1917.

#### ORDER.

Madera Gas Company having applied for authority to increase its gas rates, hearings having been held, the matter having been submitted and being now ready for decision, the Railroad Commission finds as a fact that the existing rates charged for gas sold under present conditions of cost of operations are unjust and unreasonable in so far as they differ

from the rates hereinafter set forth, and that the rates set forth in this order are just and reasonable.

Basing its order on the foregoing findings of fact and upon the other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that Madera Gas Company be and is hereby authorized to charge and collect the following rates for gas. Such rates shall be applicable to all regular meter readings taken on and after August 1, 1918, provided Madera Gas Company shall have filed with the commission such rates within ten days of the date of this order.

**General Service.**

**Monthly consumption.**

First 500 cubic feet or less per meter per month, \$1.10 (gross), \$1.00 (net).

Next 3,000 cubic feet per meter per month, \$1.85 (gross), per M cubic feet, \$1.75 (net) per M cubic feet.

Next 4,500 cubic feet per meter per month, \$1.70 (gross), per M cubic feet, \$1.60 (net) per M cubic feet.

Next 7,000 cubic feet per meter per month, \$1.40 (net) per M cubic feet.

All over 15,000 cubic feet per meter per month, \$1.20 (net) per M cubic feet.

The net rate is effective if the bill is paid on or before the twelfth day of the month next succeeding that for which the bill is rendered; otherwise the gross rate is effective.

Dated at San Francisco, California, this seventeenth day of July, 1918.

**DECISION No. 5597.**

**IN THE MATTER OF THE APPLICATION OF CONTRA COSTA GAS COMPANY FOR AN ORDER TO ISSUE 500 SHARES OF THE STOCK OF SAID CORPORATION AT 85 PER CENT OF THE PAR VALUE THEREOF.**

**Application No. 3874.**

*Decided July 17, 1918.*

*S. Waldo Coleman*, for Applicant.

**BY THE COMMISSION.**

**OPINION.**

Contra Costa Gas Company asks authority to issue at not less than \$85.00 per share 500 shares of its common capital stock and use the proceeds obtained from the sale of said stock for the purposes hereinafter indicated.

A hearing on this application was held before Examiner Encell at San Francisco on July 9.

Contra Costa Gas Company was organized on or about April 24, 1914. It operates in Pittsburg, Antioch, Concord, Martinez, Port Costa, Crockett and adjacent territory, all in Contra Costa County.

Applicant reports that to December 31, 1917, it has expended for construction purposes \$240,475.19. The detail of these expenditures are reported in an exhibit attached to the petition in Application No. 3493. Applicant further reports that pursuant to the authority granted by the commission in Decision No. 1878, dated October 15, 1914 (Vol. 5, Opinions and Orders of the Railroad Commission of California, p. 594), it has sold \$61,150.00 of stock for \$49,530.00 and \$109,000.00 of bonds for \$98,250.00. In Decision No. 5161, dated February 26, 1918, the commission authorized applicant to sell \$50,000.00 of bonds. From the sale of these bonds, applicant realized \$46,750.00. The total amount realized from the sale of stock and bonds is reported at \$194,530.00. Deducting the \$194,530.00 from applicant's reported construction expenditures to December 31, 1917, leaves \$45,945.19, against which no stock or bonds have been issued.

Applicant reports notes payable amounting to \$43,250.00, while its accounts payable on April 30, 1918, amounted to \$37,813.92. Applicant asks permission to sell 500 shares (\$50,000.00) of its common capital stock at not less than \$85.00 per share and use the proceeds to pay current indebtedness incurred for capital expenditures.

The \$240,475.19 of construction expenditures incurred to December 31, 1917, includes \$19,962.38 of development expense. The testimony in this proceeding shows that it has been the practice of applicant to charge the cost of obtaining new business during a period of twelve months after entering a city or town, to development expense. Subsequent to the twelve months, the cost of obtaining new business has been and is being included in operating expenses. Applicant proposes to amortize the development expense within a period of ten years. Through amortization, it intends to substitute for the development expense, tangible property of an equal cost and not issue any additional stock or bonds against such property.

Reference is here made to Decision No. 5161, dated February 26, 1918, which shows applicant's revenues and expenses for the years 1916 and 1917, and its assets and liabilities as of December 31, 1917.

#### ORDER.

Contra Costa Gas Company having applied to the Railroad Commission for authority to issue \$50,000.00 of its common capital stock, a public hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Contra Costa Gas Company be and it is hereby granted authority to issue and sell for cash at not less than

\$85.00 per share, 500 shares (\$50,000.00) of its common capital stock, upon the following conditions, and not otherwise.

(1) Applicant shall use the proceeds from the sale of said stock to pay notes and accounts payable representing indebtedness incurred because of capital expenditures prior to December 31, 1917.

(2) Applicant shall keep true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the stock herein authorized to be issued, and shall on or before the twenty-fifth day of each month make a verified report to the Railroad Commission as required by the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted shall apply only to such stock as may be issued on or before August 1, 1919.

Dated at San Francisco, California, this seventeenth day of July, 1918.

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DECISION No. 5601.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA VALLEY  
WAREHOUSE COMPANY, A CORPORATION, FOR AN ORDER  
AUTHORIZING THE CORPORATION TO SELL AND ISSUE SHARES  
OF ITS CAPITAL STOCK.

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Application No. 3884.

*Decided July 19, 1918.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission of the state of California by Decision No. 5558, dated July 10, 1918, authorized applicant herein to issue \$49,900.00 of its common capital stock upon certain conditions; and

Whereas Condition "2" of said decision reads as follows:

"The authority herein granted shall not become effective until Santa Maria Valley Warehouse Company has filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Santa Maria Valley Warehouse Company, its successors and assigns, will never urge the Railroad Commission or other public body having jurisdiction to include in a rate base, \$5,000.00 or such other amount as may be expended for bean cleaning or other equipment not used in public utility business, and a supplemental order made reciting that such stipulation satisfactory in form has been filed in this proceeding."

It is hereby declared by the Railroad Commission of the state of California that Santa Maria Valley Warehouse Company has filed in form

satisfactory such required stipulation duly authorized by its board of directors.

Dated at San Francisco, California, this nineteenth day of July, 1918.

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DECISION No. 5603.

IN THE MATTER OF THE APPLICATION OF UNION ICE AND STORAGE  
COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

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Application No. 3978.

*Decided July 26, 1918.*

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*Wilson & Wilson, for Applicant.*

LOVELAND, *Commissioner.*

**OPINION.**

The Union Ice and Storage Company in this application asks authority to issue 1,747 full paid shares of its common stock to the Union Ice Company, in consideration of the conveyance to applicant of a certain lot of land, containing an area of approximately 300 by 600 feet, fronting on Mormon Channel, in the city of Stockton, together with the improvements thereon, consisting of a complete cold storage plant and warehouse, now in operation, said land and improvements being of the actual value and having actually cost \$166,377.23; together with the payment to applicant of the sum of \$8,322.77 in cash, to be used by Union Ice and Storage Company as a working capital.

Applicant, in its testimony, certifies to the fact that the sum of \$166,377.23 represents the actual cash cost of the property in labor and material, without any charge for overhead or interest during construction.

I recommend that this application be granted and submit herewith the following form of order:

**ORDER.**

*It is hereby ordered* that Union Ice and Cold Storage Company be and it is hereby granted the authority to issue 1,747 shares of its common stock to the Union Ice Company, for the following consideration and under the following conditions, and not otherwise:

1. The transfer to applicant of a certain lot of land, fronting on the Mormon Channel in the city of Stockton, containing an area of approximately 300 by 600 feet, together with the improvements thereon,



consisting of a complete cold storage plant and warehouse, now in operation, the cost and value of land and improvements being as follows :

Land, 300 by 600 feet, on Mormon Channel, Stockton-----	\$7,781 95
Refrigerating machinery -----	40,473 97
Warehouse building -----	103,029 84
Cold storage equipment -----	38 22
Office equipment -----	43 62
Bean cleaning equipment -----	287 41
Warehouse equipment -----	5,103 28
Well -----	542 14
Roadway -----	126 00
Ammonia charge -----	1,122 32
Bean cleaning machinery -----	4,789 33
Spur track -----	3,039 15
	<hr/>
	\$166,377 23

together with the payment to applicant of the sum of \$8,322.77 in cash.

2. Within ten days after said stock is issued, applicant shall make a verified report to the commission showing the date of issue and consideration received for same, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority hereby granted shall apply only to such stock as may be issued on or before December 31, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

#### DECISION No. 5604.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA TELEPHONE COMPANY FOR A CERTIFICATE TO EXERCISE THE RIGHTS AND PRIVILEGES GRANTED BY CITY OF SANTA BARBARA AND ORDAINED BY ORDINANCE NO. 965 PASSED BY COUNCIL OF SAID CITY MAY 16, 1918, EFFECTIVE JUNE 20, 1918, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH.

Application No. 3836.

*Decided July 26, 1918.*

*G. B. Bush*, for Petitioner.

*W. P. Butcher*, for city of Santa Barbara.

*GORDON*, Commissioner.

#### OPINION.

This is an application by Santa Barbara Telephone Company asking that the Railroad Commission make its order declaring that public con-

venience and necessity require the exercise by petitioner of the rights and privileges granted to it by Ordinance No. 965 of the city of Santa Barbara, adopted May 16, 1918, and effective June 20, 1918.

A public hearing was held in Santa Barbara on July 13, 1918. No one appeared in opposition to the granting of the petition.

Petitioner is now operating in the city of Santa Barbara under two franchises, one of which was granted by Ordinance No. 444, and expires August 21, 1935; the other by Ordinance No. 725, expiring January 1, 1937. Ordinance No. 965 was granted by the city of Santa Barbara in accordance with the requirements of the city charter. It repeals all ordinances and parts of ordinances in conflict therewith. Except that the franchise granted by Ordinance No. 965 runs for a period of fifty years from its effective date, or until June 20, 1968, its conditions are in all essential particulars the same as those contained in the former franchises. It grants to petitioner, its successors and assigns the right to construct and maintain the usual necessary facilities for carrying on a general telephone and telegraph business within the city. It provides also for the payment by the owner or holder of the franchise to the city of a percentage of the gross receipts accruing under its possession and operation as provided by the Broughton Act, and for the free use by the city of certain designated service and facilities. Other conditions to which it is not necessary here to refer are also provided for. Under its charter the city of Santa Barbara is not required to advertise for bids for the sale of franchises and accordingly this franchise was granted without any payment in cash therefor by petitioner.

The date of maturity of bonds issued by petitioner is July 1, 1946. Petitioner states that it is preparing an application to the State Banking Department for a certificate that its bonds are legal as investment for funds of savings banks and trust companies, and in order that such certificate may issue, it is required that the term of petitioner's franchise continue beyond the date of maturity of bonds. It is for the purpose of meeting this requirement that petitioner has secured this franchise and is now seeking the authority of the Railroad Commission to exercise the rights and privileges granted thereby.

We recommend that the petition be granted, subject to the conditions contained in the order herein, and submit the following form of order:

#### **ORDER.**

Santa Barbara Telephone Company, petitioner herein, having filed the above-entitled application asking the Railroad Commission to make its order as specified in the opinion herein, and a public hearing having been held on said application,

The Railroad Commission hereby declares that public convenience and necessity require the exercise by Santa Barbara Telephone Com-

pany, its successors and assigns, of the rights and privileges conferred by Ordinance No. 965, adopted by the city of Santa Barbara on May 16, 1918, effective June 20, 1918, entitled "An ordinance granting to Santa Barbara Telephone Company, a corporation, its successors and assigns, the right, privilege and franchise to place, erect and maintain poles, wires and other appliances and conductors, and to lay underground conductors for wires for the transmission of electricity for telephone and telegraph purposes in, upon and under the streets, alleys, avenues, thoroughfares, highways and public places in the city of Santa Barbara, state of California, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said city of Santa Barbara, and prescribing terms and conditions and limitations under the right hereby granted may be exercised and providing further for a revocation of the rights hereby granted in case the terms and conditions herein are not complied with."

Provided, that the said Santa Barbara Telephone Company shall first have filed with the Railroad Commission its stipulation agreeing for itself, its successors and assigns, that it will never claim before the Railroad Commission of the state of California or any other public authority, any value for the rights and privileges conferred by Ordinance No. 965 of the city of Santa Barbara in excess of the amount actually paid to the city of Santa Barbara, as the consideration for the grant of such franchise, and shall have secured from this commission a supplemental order or orders herein declaring that such stipulation in form satisfactory to this commission has been filed.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

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DECISION No. 5610.

THE COUNTY OF KINGS

vs.

SOUTHERN PACIFIC RAILROAD COMPANY.

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Case No. 1234.

*Decided July 26, 1918.*

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*R. Justin Miller*, for the county of Kings.

*George D. Squires*, for Southern Pacific Railroad Company.

*GORDON*, Commissioner.

**OPINION.**

This application was filed with the commission on June 4, 1918, and a public hearing was held thereon at Hanford, on July 22, 1918.

Complainant herein alleges that certain highway grade crossings over the tracks of the Southern Pacific Company are dangerous to the public who are forced to use them, and requests that an order be issued by the commission directing the defendant to install and maintain protective devices, or a human flagman, at each crossing.

In answer to the complaint, the Southern Pacific Company filed an answer in which it states that, in its judgment, no protection is necessary at either of the first two crossings mentioned in the application and that, at the third crossing, it has made arrangements to install an automatic flagman as soon as material can be secured. The crossings mentioned in the application are as follows:

I.

Crossing of Lake street with the Southern Pacific railroad in the unincorporated town of Armona.

II.

The crossing of the state highway with the Southern Pacific railroad at a point about one-half ( $\frac{1}{2}$ ) mile east of Hanford.

III.

The crossing of the Kings County highway with the Southern Pacific railroad at the west line of the city limits of the city of Hanford.

Crossing in the town of Armona is a north and south county highway, known locally as Lake street. This crossing is over the main line and four (4) other tracks. When approaching the crossing from the south the view is badly obstructed by a lumber yard and a packing plant on the right of way. The tracks at this point are often filled with cars during the packing season, which is also the time of the year when the highway is most used, and this increases the hazard to a large extent. When approaching the crossing from the north the view is less obstructed, but an open view of the main line to the west can not be obtained until about twenty (20) feet from the railroad. Several fatal accidents have occurred at this point and some protection should undoubtedly be provided during the packing season, when the view is obstructed by cars in the yards, and switching movements are a daily occurrence.

The crossing of the state highway with the Southern Pacific tracks, one-half mile east of Hanford, is made at an angle of about eleven degrees. This slight angle is a feature which makes this crossing dangerous, for, while the view is open for about seven hundred feet from the crossing on each side, the drivers of vehicles are forced to look almost directly to the rear to make sure that trains are not approaching from behind. This highway is heavily used and often the

driver's attention must be focused upon approaching vehicles, which makes it dangerous to look to the rear. It would appear that to a certain extent the danger at this crossing is caused by the disregard of the hazard attached to it by the drivers of vehicles, but as two fatal accidents have occurred here and the county is willing to assume a portion of the expense of installing an automatic flagman, it is our opinion that this protection should be installed.

The third crossing is located on the county highway on the west line of the city limits of the city of Hanford and is over the main line, one siding and a spur track of the Southern Pacific Company. The view at this crossing is badly obstructed on three corners until the right of way line is reached. The traffic over this crossing is heavy and train movements are frequent. No question was raised as to the advisability of leaving this crossing unprotected. The county, prior to the hearing, had agreed to pay one-half of the cost of an automatic flagman at its installation at this point, and arrangements have been made by the Southern Pacific Company for the installation as soon as the necessary material can be obtained.

I recommend the following form of order:

**ORDER.**

The county of Kings, having made application to the commission for an order directing that protection be installed at three crossings in Kings County, California, as herein described, and as shown on the map attached to the application; and a public hearing having been held and the commission believing that certain protection should be installed, maintained and operated at these crossings,

*It is hereby ordered* that the Southern Pacific Company be and the same hereby is ordered to install, use, maintain and operate certain safety devices, or human flagmen, at each of the crossings mentioned in the application, subject to the following conditions:

(1) The Southern Pacific Company shall install and maintain a human flagman at the crossing of Lake street with the Southern Pacific Company's tracks in the town of Armona; said flagman to protect the crossing between the hours of 7.00 a.m. and 7.00 p.m. during the period between June 1 and December 31 of each year.

(2) The Southern Pacific Company shall install, operate and maintain an automatic flagman at the crossing of the state highway with the tracks of the Southern Pacific Company at a point about one-half mile east of the city of Hanford.

(3) The Southern Pacific Company shall install, operate and maintain an automatic flagman at the crossing of the county highway with the tracks of the Southern Pacific Company at the west line of the city limits of the city of Hanford.

(4) One-half of the cost of the above-mentioned automatic flagman and the cost of the installation thereof shall be borne by the county of Kings.

(5) The commission reserves the right to make such further orders in regard to this matter as to it may seem right and proper, if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

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DECISION No. 5611.

IN THE MATTER OF THE APPLICATION OF KINGS LAKE SHORE RAILROAD COMPANY FOR AUTHORITY TO INCREASE FREIGHT RATES.

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Application No. 3944.

Decided July 26, 1918.  
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*Chas. King*, for Applicant.

*B. M. Aiken*, for Pingree Sugar Company.

*Thos. E. Haven*, for El Reco Land and Harvester Company and Carroll

*M. Gates*, Protestants.

LOVELAND, *Commissioner*.

**OPINION.**

This is an application by the Kings Lake Shore Railroad Company, hereinafter referred to as the railroad, for authority under section 63 of the Public Utilities Act to increase its freight rates between Corcoran and El Reco-Harvester, as follows:

Commodity		Rates per ton of 2,000 pounds	
		Present	Proposed
Grain--carload -----	Between El Reco and Corcoran.....	\$0.90	\$1.00
	Between Harvester and Corcoran.....	.90	1.10
Hay--carload -----	Between El Reco and Corcoran.....	.90	1.00
	Between Harvester and Corcoran.....	.90	1.10
Sugar beets--carload.....	Between El Reco and Corcoran.....	.60	.70
	Between Harvester and Corcoran.....	.60	.90
Alfalfa meal--carload ----	Between El Reco and Corcoran.....	.90	1.00
	Between Harvester and Corcoran.....	.90	1.10

The railroad extends from Corcoran, a junction point with The Atchison, Topeka and Santa Fe, and has but four stations—Clark, 3½ miles; El Reco, 10 miles; Harvester, 15 miles; and Lib, 18 miles from Corcoran. It is in a period of construction and while performing a freight service does so under many disadvantages. Part of the track is far from complete, thus making maintenance and operating costs excessive as compared with the cost of a completed railroad.

The first tariff filed by this railroad became effective July 1, 1917, and covered rate of 75 cents per ton on grain, in carload lots, from El Reco to Corcoran. Tariff No. 2, effective July 25, 1917, provided a rate of 75 cents per ton on hay and grain from either El Reco or Harvester, also rate of 50 cents per ton on sugar beets from Harvester to Corcoran. Tariff No. 3, effective September 1, 1917, reproduced the same rates carried in Tariff No. 2 and added an item to cover alfalfa meal at rate of 75 cents per ton Harvester to Corcoran. Tariff No. 4, effective June 25, 1918, was not regularly filed with this commission, but was filed with the Interstate Commerce Commission in compliance with General Order No. 28 of the Director General of United States Railroad Administration. This tariff provided rate of 90 cents per ton on all commodities moving between Harvester and Corcoran, except sugar beets, which were given a rate of 60 cents per ton.

The railroad handles no passengers and has no established freight service. During a short period, when crops are moving, a train leaves Corcoran about 1 p.m., returning to initial point about 6 p.m. During the balance of the year freight service is rendered only as required, about once or twice a week. The tonnage consists almost entirely of grain, sugar beets and hay. The railroad has no motive power of its own, but secures cars from The Atchison, Topeka and Santa Fe at the regular per diem charge and rents a locomotive for \$250.00 per month, which is a very expensive method of operation.

Operating expenses and revenues July 1, 1917, to June 1, 1918, eleven months, as per statement attached to application, were:

	Operating expenses	Operating revenue
1917—July .....	\$548 30	\$1,509 84
August .....	1,462 91	3,737 16
September .....	908 28	1,808 34
October .....	690 60	1,142 68
November .....	755 20	1,264 58
December .....	883 85	1,429 06
1918 January .....	1,591 41	1,087 05
February .....	1,655 29	517 58
March .....	1,443 98	510 65
April .....	1,232 83	669 84
May .....	1,452 63	249 73
Totals .....	\$12,625 23	\$13,926 51

From July to December, 1917, active construction work was in progress and the amount charged as operating expenses against commercial freight was arbitrary. Since January 1, 1918, but little construction work has been done and the operating expenses since that date are supposed to represent actual costs. It is to be noted there is a very substantial loss each month during this five months period.

Applicant's Exhibit No. 1 estimates the following earnings for the year 1918:

From Lib 5,000 tons grain at \$1.20.....	\$6,000 00
From Harvester 5,000 tons grain at \$1.10.....	5,500 00
From Harvester 7,000 tons beets at 90 cents.....	6,300 00
From El Reco 5,000 tons hay and grain at \$1.00.....	5,000 00
North of Tule 1,000 tons hay and grain at 50 cents.....	500 00
Estimated ingoing freight.....	1,000 00
Total .....	\$24,300 00

Against these receipts, \$24,300.00, there is a claimed operating expense of \$24,548.52, segregated as shown below:

Train crew .....	\$4,200 00
Fuel oil .....	3,300 00
Upkeep of equipment .....	1,000 00
Construction betterment .....	5,000 00
Rental of locomotive .....	3,000 00
Upkeep of track .....	3,000 00
Joint agent.....	1,200 00
Bookkeeping and supervision .....	1,500 00
Corporation tax .....	571 82
Industrial insurance .....	776 70
Estimated car rental .....	1,000 00
Total .....	\$24,548 52

Applicant testified that the actual cost of the railroad to June 1, 1918, was \$246,637.59 and after allowing a yearly interest of \$14,400.00, about 6 per cent of this cost price, there will be a deficit of approximately \$14,000.00 at the end of the year. Items of expense, such as train crew, \$4,200.00; construction and betterment, \$5,000.00; rental of locomotive, \$3,000.00; upkeep of track, \$3,000.00; joint agent, bookkeeping and supervision, \$2,700.00; were questioned by attorneys representing protestants, but no evidence was introduced to prove these charges excessive. The total of questioned items, \$17,900.00, appears unusually heavy, but if this amount were reduced one-third, or by \$5,966.66, the railroad would only earn, above operating expenses, \$5,718.14, based on tonnage applicant estimates during 1918. This represents less than 2½ per cent on the claimed investment.

A witness for protestant figured a much larger tonnage for 1918 than was moved in 1917, basing his results on the output from his own property and that from adjacent farms. Testimony and statements



were presented, comparing the cost of farming one acre of grain with that of farming one acre of sugar beets, the tonnage each crop produced per acre and the total cost of landing the commodity aboard cars for shipment. In addition, an exhibit was introduced showing freight rates assessed by trunk line carriers for the transportation of sugar beets and grain. This information, while interesting, can have no controlling influence on rates necessary to meet the financial difficulties under which this railroad is laboring. While it is a fact the existing rates of this applicant are materially higher than rates on the same commodities for equidistant hauls on other lines in the state of California, it will be found that the circumstances and conditions under which this applicant handles its traffic are entirely dissimilar.

The principal stockholder of this applicant testified he was unable to proceed with construction work, having exhausted his private fortune and is now unable to borrow funds for any new work, or for operating purposes. The record shows conclusively that the present rates are not sufficient, with the limited tonnage offering, to provide operating expenses and the interest requirements. Application involves rates between Corcoran and El Reco-Harvester and only these can be considered in this opinion and order.

Sugar beets are a low-grade commodity and I believe the rate of 90 cents per ton from Harvester to Corcoran would be unreasonable as compared with the rate on grain, a much more valuable commodity.

I recommend that applicant be authorized to establish the following rates:

Commodity		Rates per ton of 2,000 pounds
Grain—carload .....	Between El Reco and Corcoran.....	\$1.00
	Between Harvester and Corcoran.....	1.15
Hay carload .....	Between El Reco and Corcoran.....	1.00
	Between Harvester and Corcoran.....	1.10
Sugar beets—carload .....	Between El Reco and Corcoran.....	.70
	Between Harvester and Corcoran.....	.80
Alfalfa meal—carload .....	Between El Reco and Corcoran.....	1.00
	Between Harvester and Corcoran.....	1.10

I submit the following order:

#### ORDER.

Public hearing having been held in above-entitled proceeding, testimony having been presented, the case having been submitted for decision, and the Railroad Commission having reached the conclusion that rates now being charged are unjust and unreasonable,

*It is hereby ordered* that the Kings Lake Shore Railroad Company be authorized to establish within twenty (20) days from the date of this order the following rates, which are found to be just and reasonable :

Commodity		Rates per ton of 2,000 pounds
Grain—carload	Between El Reco and Corcoran.....	\$1.00
	Between Harvester and Corcoran.....	1.15
Hay—carload	Between El Reco and Corcoran.....	1.00
	Between Harvester and Corcoran.....	1.10
Sugar beets—carload	Between El Reco and Corcoran.....	.70
	Between Harvester and Corcoran.....	.80
Alfalfa meal—carload	Between El Reco and Corcoran.....	1.00
	Between Harvester and Corcoran.....	1.10

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

#### DECISION No. 5612.

IN THE MATTER OF THE APPLICATION OF THE EUCLID AVENUE  
WATER COMPANY FOR PERMISSION TO EXECUTE A MORTGAGE  
ON ITS REAL ESTATE AND PLANT.

Application No. 3926.

*Decided July 26, 1918.*

*Theo. F. Taylor*, for Applicant.

BY THE COMMISSION.

#### OPINION.

Euclid Avenue Water Company seeks authority to issue a note for \$4,000.00 to become due May 1, 1921, in favor of Union Trust and Savings Bank, Pasadena, and to mortgage its plant and property to secure the payment thereof.

A public hearing on the application was held by Examiner Westover at Los Angeles, July 10.

Applicant is a corporation with an authorized capital stock of \$25,000.00 of which \$15,910.00 is issued and outstanding. It is organized as a public utility but in practice serves water only to its own stockholders, with a single exception, and at approximate cost.

The above-named bank holds applicant's note and mortgage dated May 1, 1911, for \$5,000.00, on which \$1,000.00 was paid February 2, 1915, leaving a balance of \$4,000.00 now due and payable, which indebtedness applicant and the bank have agreed to renew for the three years ending May 1, 1921. All of the \$5,000.00 procured upon the original note was used for capital purposes. The real estate and plant are carried on applicant's balance sheet as of December 31, 1917, at \$24,329.30, based on an appraisal made many years ago. No valuation or appraisal was submitted at the time of the hearing.

#### ORDER.

Euclid Avenue Water Company having applied for authority to issue note and execute mortgage on its property as herein described, public hearing having been held thereon, and the matter being now ready for decision,

*It is hereby ordered* that Euclid Avenue Water Company be and it is hereby authorized to issue note for \$4,000.00, due May 1, 1921, in favor of Union Trust and Savings Bank of Pasadena, and secure the payment of said note by hereafter executing mortgage upon all of its plant, system and property.

This authority is upon the following conditions:

1. Said note shall bear interest at a rate not exceeding 7 per cent per annum and shall be issued at a price which will net to applicant its face value without allowance of commission or discount.

2. The authority herein contained shall extend only to such note and mortgage as may be hereafter executed within sixty days from the date hereof.

3. Within ten days after issuing said note and executing said mortgage, applicant shall make verified report in writing to the commission showing the fact and date of issue of note and execution of mortgage, and shall file with the commission copy of said note and mortgage as finally executed.

4. This authority is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

## DECISION No. 5613.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO SELL PROPERTY AND FRANCHISE AND TO LEASE PROPERTY TO REDONDO HOME TELEPHONE COMPANY AND TO WITHDRAW FROM THE TELEPHONE BUSINESS, AND OF REDONDO HOME TELEPHONE COMPANY FOR AUTHORITY TO ACQUIRE PROPERTY AND FRANCHISE AND TO LEASE PROPERTY FROM THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY AND TO ISSUE BONDS.

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Application No. 3866.

*Decided July 26, 1918.*

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CONSOLIDATION TELEPHONE SYSTEMS.—The consolidation of two competing telephone systems operated in Redondo and vicinity authorized; the terms of consolidation to be later approved by the commission. Advantages of telephone consolidation over competition discussed.

*Pillsbury, Madison & Sutro and James T. Shaw, for The Pacific Telephone and Telegraph Company.*

*Arthur Wright, for Redondo Home Telephone Company.*

EDGERTON, *Commissioner.*

**OPINION.**

Applicants seek authority to consolidate two competing telephone systems operating in the city of Redondo and vicinity.

The Pacific Telephone and Telegraph Company proposes to sell, and pending consolidation to lease, to Redondo Home Telephone Company its plant.

The purchase price agreed upon involves the issuance of bonds by Redondo Home Telephone Company and there is not sufficient evidence before this commission upon which to determine the amount of bonds which may safely be borne by the telephone property upon which the lien of these bonds will rest.

We find here the usual reasons for approving of consolidation. It would be to the undoubted advantage of telephone subscribers in this community to have the use of one system, and notwithstanding widespread publicity given to this proposed consolidation no protests were made.

Furthermore, it is evident that this is not a field within which two competing companies can operate with financial success. The evidence before the commission shows that for a period of six years last past the Redondo Home Telephone Company has operated at a net loss and it will be impossible for it to continue operations and avoid bankruptcy. It may be that with the two plants consolidated and the entire telephone

business done by one company, there will be reasonable hope of successful financial operation.

I recommend, therefore, that this consolidation be authorized and that the terms and conditions of the consolidation be fixed by a subsequent supplemental order when the commission will be more fully advised.

#### ORDER.

Application having been made therefor by The Pacific Telephone and Telegraph Company and Redondo Home Telephone Company,

*It is hereby ordered* by the Railroad Commission of the state of California that The Pacific Telephone and Telegraph Company is hereby authorized to sell all that certain real and personal property and franchises located in the city of Redondo and vicinity, all of which is more particularly described in Exhibit "A" and Exhibit No. 2 on file herein, to Redondo Home Telephone Company and pending the consolidation of the plants herein authorized, to lease the same.

Redondo Home Telephone Company is hereby authorized to purchase and lease said property and to consolidate the same with its telephone system in the city of Redondo and vicinity; provided, however, that before said sale or lease shall be consummated a supplemental order shall be made by this commission fixing the terms of such sale and lease.

The Pacific Telephone and Telegraph Company is further authorized to withdraw from the telephone business in the city of Redondo and vicinity.

It is hereby declared by the Railroad Commission of the state of California that public convenience and necessity require and will require that Redondo Home Telephone Company exercise the rights and privileges under the franchises to be acquired from The Pacific Telephone and Telegraph Company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

## DECISION No. 5614.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO SELL PROPERTY AND FRANCHISES AND TO LEASE PROPERTY TO SANTA MONICA BAY HOME TELEPHONE COMPANY AND TO WITHDRAW FROM THE TELEPHONE BUSINESS, AND OF SANTA MONICA BAY HOME TELEPHONE COMPANY FOR AUTHORITY TO ACQUIRE PROPERTY AND FRANCHISES AND TO LEASE PROPERTY FROM THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY AND TO ISSUE BONDS.

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Application No. 3821.

*Decided July 26, 1918.*

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TELEPHONE CONSOLIDATION.—Consolidation of two competing telephone systems operating in Santa Monica, Venice and vicinity authorized; the terms of the consolidation to be later approved by the commission.

Decision points out advantage of consolidated telephone systems in that the telephone is a natural monopoly and that there should be one universal service enabling complete interchange of communication between all users and also the advantage resulting from the elimination of duplicate property and duplicate operating expenses.

*Pillsbury, Madison & Sutro and James T. Shaw*, for The Pacific Telephone and Telegraph Company.

*Dexter & Ellis*, for Santa Monica Bay Home Telephone Company.

*Victor R. McLucas*, city attorney, for city of Santa Monica.

*R. M. Blodget*, city attorney, for city of Venice.

*EDGERTON*, Commissioner.

**OPINION.**

The purpose of this application is to bring about the consolidation into one system of two separate and competing telephone plants operating in the cities of Santa Monica and Venice and territory tributary thereto.

The Pacific Telephone and Telegraph Company proposes to sell its telephone properties in this locality to its competitor and thereupon to retire from the field.

The purchase price which has been agreed upon involves the issuance and delivery of bonds by Santa Monica Bay Home Telephone Company and the exchange of certain of its telephone properties and certain of its equipment for other equipment of The Pacific Telephone and Telegraph Company, and pending the consolidation it is proposed that the Pacific Telephone and Telegraph Company lease its competing telephone system to Santa Monica Bay Home Telephone Company.

If this application is granted the Santa Monica Bay Home Telephone Company proposes to install a full automatic telephone system.

The cities of Santa Monica and Venice appeared through their legal representatives and formally stated that the citizens of these communi-

ties favored a consolidation of these competing telephone systems: and no protest has been made in opposition to this application.

The objections to the continuance of a double telephone service have been so frequently and fully set out in opinions of this commission that it is needless to again fully cover this ground.

It may be said, however, that after a number of years of experience with two telephone systems in these communities, the subscribers almost unanimously demand a consolidation into one system, and the reasons for this are obvious. The telephone being a natural monopoly there should be one universal service, as this will enable complete interchange of communication between all telephone users in the community; this in addition to the usual advantages of consolidation of utility properties resulting from the elimination of duplicate property and duplicate operating expenses.

The terms and conditions of the sale as set out in the application can not adequately be passed upon at this time for the reason that there is not sufficient evidence before the commission upon which a sound judgment may be reached as to the value of the plant to be sold and exchanged or to determine the total property value of the Santa Monica Bay Home Telephone Company upon which the proposed and existing bond issue will rest, or as to the earnings that may reasonably be expected after the consolidation.

Therefore, I recommend that an order be made authorizing the consolidation of these telephone systems and leaving for a subsequent supplemental order the fixing of the terms and conditions upon which such consolidation shall be made.

Herewith a form of order:

#### **ORDER.**

Application having been made therefor by The Pacific Telephone and Telegraph Company and Santa Monica Bay Home Telephone Company and a public hearing having been had,

*It is hereby ordered* by the Railroad Commission of the state of California that The Pacific Telephone and Telegraph Company is hereby authorized to sell to and exchange with Santa Monica Bay Home Telephone Company all that certain real and personal property and franchises located in the cities of Santa Monica and Venice and the territory tributary thereto now being used by said The Pacific Telephone and Telegraph Company in the conduct of a telephone business, all as more particularly described in Exhibit "A" and Exhibit No. 2 on file herein. and pending the consolidation The Pacific Telephone and Telegraph Company is authorized to lease said property to Santa Monica Bay Home Telephone Company.

Santa Monica Bay Home Telephone Company is hereby authorized to purchase and lease said above described property and to consolidate said property with its telephone system now being operated in the cities of Santa Monica and Venice and territory tributary thereto; provided, however, that before said sale or lease is consummated a supplemental order shall be made by this commission fixing all of the terms and conditions of such sale and lease and fixing the amount of bonds which may be issued by Santa Monica Bay Home Telephone Company and the terms and conditions of such issue.

*It is hereby further ordered* that The Pacific Telephone and Telegraph Company is hereby authorized to withdraw from the telephone business in the cities of Santa Monica and Venice and the territory tributary thereto.

It is hereby declared by the Railroad Commission of the state of California that public convenience and necessity require and will require the exercise of rights and privileges under the franchises which it will acquire from The Pacific Telephone and Telegraph Company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

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DECISION No. 5615.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO HOME TELEPHONE COMPANY, T. A. THOMPSON AND TITLE INSURANCE AND TRUST COMPANY FOR AUTHORITY TO SELL AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY TO PURCHASE PROPERTY AND FRANCHISES OF SAN DIEGO HOME TELEPHONE COMPANY.

Application No. 3702.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY GRANTING THE EXERCISE OF RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER FRANCHISE GRANTED IT UNDER ORDINANCE NUMBER 5681 OF THE CITY OF SAN DIEGO.

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Application No. 3780.

*Decided July 26, 1918.*

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TELEPHONE CONSOLIDATION.—Consolidation of two competing telephone systems operating in and about San Diego authorized, the terms of the consolidation to be later approved by the commission.

64--41120



In addition to advantages of consolidation pointed out in Decisions Nos. 5613 and 5614, the decision states that the experience of the commission is convincing that almost without exception in California there is a serious and widespread objection to the operation of two telephone systems in competition.

*Pillsbury, Madison & Sutro* and *James T. Shaw*, for The Pacific Telephone and Telegraph Company.

*John H. McCorkle*, for San Diego Home Telephone Company.

*Lucius K. Chase and Sweet, Stearns & Forward*, for T. A. Thompson and Title Insurance and Trust Company.

*S. W. Sweitzer*, *in propria persona*.

*H. S. Utley*, for certain subscribers.

*Ray N. Harris*, for city of National City.

*Johnson W. Paterbaugh*, for city of Coronado.

*F. B. Andrews*, for city of Chula Vista.

*T. B. Cosgrove*, for city of San Diego.

*John L. Akerman* and *John A. Gillin*, for San Diego Chamber of Commerce.

*L. F. Weggenman*, for Merchants Association.

*P. M. Andrews*, for city of East San Diego.

*E. T. Lannon*, for La Jolla Chamber of Commerce.

EDGERTON, *Commissioner*.

#### OPINION.

San Diego Home Telephone Company, T. A. Thompson and Title Insurance and Trust Company request authority to sell all of their telephone property and franchises now owned and operated by them in the city of San Diego and vicinity and to withdraw from the telephone business.

The Pacific Telephone and Telegraph Company seeks authority to purchase said telephone property and franchises and to consolidate the same with its telephone system now being operated in competition in the same localities and to adjust or change certain of its rates to be charged for the consolidated service.

The Pacific Telephone and Telegraph Company prays for a certificate that public convenience and necessity require the exercise by it of rights and privileges under a franchise granted by the city of San Diego on the sixth day of July, 1914. It is proposed to operate the consolidated company under this franchise. The application states that this franchise was obtained at a total cost to applicant of \$100.00.

A contract has been entered into for said sale and purchase and the sum of \$650,000.00 is named therein as the purchase price.

A hearing was had in the city of San Diego at which representatives of the various municipalities affected requested an adjournment of the hearing for a considerable period of time in order that they might study the numerous exhibits filed by applicants.

Applicants, particularly representatives of San Diego Home Telephone Company, T. A. Thompson and Title Insurance and Trust Company, objected to any considerable delay in the submission of this matter and urged that unless speedy action could be had that the whole plan of consolidation might fail, as the last named parties were in no position to carry on the operation of the San Diego Home Telephone plant and it was essential that they dispose of it at the earliest possible moment. It was stated, however, that if this commission would give speedy consideration to the matter of consolidation, leaving for later hearing a determination of other matters such as any new or changed rates for service, the amount of purchase price properly to be charged to capital by the Pacific company and in fact all questions except the mere one of consolidation, that the applicants would have no objection to a reasonable adjournment of the hearing. Whereupon it was moved on behalf of applicants that the commission make an order prior to the final submission of the whole matter authorizing the purchase and sale above mentioned.

Most of the communities represented made no objection to this proposal and the only objection that was offered was based apparently on a fear that authorization by this commission for consolidation would foreclose any real consideration of the question of rates.

I am satisfied that there is a widespread demand in San Diego County for the elimination of a double telephone service. In fact, the experience of this commission is convincing that almost without exception in California there is serious and widespread objection to the operation of two telephone systems in competition.

We have in San Diego an added reason for approving this consolidation in that one of the companies has not been successfully operated from a financial standpoint and it is gravely to be questioned whether if competition is to continue the weaker company could survive.

In view of the necessary time (perhaps a year) which will be required to physically consolidate these properties and in view of the unquestioned benefit to the telephone users of such consolidation, I believe an order should be made immediately authorizing this consolidation.

The interests of the telephone subscribers are fully protected because it was agreed at the hearing by applicants that all questions of the amount of the purchase price which should be charged to capital account and the rates hereafter to be charged for service should be left as fully open for further determination by the commission as though an order had not been made authorizing the consolidation.

Herewith a form of order:

**ORDER.**

Application having been made by San Diego Home Telephone Company, T. A. Thompson and Title Insurance and Trust Company for

authority to sell its telephone property and franchises to The Pacific Telephone and Telegraph Company and to withdraw from telephone business and by The Pacific Telephone and Telegraph Company for authority to acquire said property and to consolidate the same with its telephone property, a public hearing having been had,

*It is hereby ordered* by the Railroad Commission of the state of California that San Diego Home Telephone Company, T. A. Thompson and Title Insurance and Trust Company are hereby authorized to sell and convey all those certain franchises and real and personal property situated in the county of San Diego, state of California, now used in the operation of a telephone business in said county, and which property is more particularly described in an indenture, a copy of which is attached to the application herein marked Exhibit "A" and to which reference is hereby made; said property to be conveyed under the terms and conditions of said indenture just above mentioned, and purchase price not to exceed \$650,000.00 and the title to be conveyed free and clear of encumbrance except taxes.

Said companies and persons are hereby further ordered and authorized to discontinue and withdraw from the telephone business in said county.

The Pacific Telephone and Telegraph Company is hereby authorized to purchase said property and to consolidate the same with its telephone system now being operated in said county. Provided, however, that this order shall in no wise be deemed to be a determination of used or useful property or of the amount to be charged to capital account by the purchasing company or of the rates to be charged for telephone service in said county; it being clearly understood that all of these matters are to be determined by the commission after a further hearing.

It is hereby declared by the Railroad Commission of the state of California that public convenience and necessity require and will require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges granted under a franchise by the city of San Diego as evidenced by an ordinance of said city adopted on the sixth day of July, 1914, and approved by the mayor on the seventh day of July, 1914, as fully set out in a copy of said ordinance attached to the application herein.

Provided that before this order shall become effective, The Pacific Telephone and Telegraph Company shall file with this commission a stipulation in writing to the effect that said company will never claim any value for said franchise for rate fixing or other purposes in excess of the sum of \$100.00.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

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DECISION No. 5618.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

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Application No. 3963.

*Decided July 26, 1918.*

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*Short & Sutherland and Murray Bourne, for Applicant.*

LOVELAND, *Commissioner.*

**OPINION.**

San Joaquin Light and Power Corporation in the petition filed in the above-entitled matter asks authority to issue \$113,000.00 of its Series "C" 6 per cent first and refunding bonds, payable August 1, 1950. Petitioner desires authority to issue the bonds at not less than 90 per cent of their face value and to use the proceeds from the sale thereof for the acquisition of property, the construction, completion, extension and improvement of its facilities and the improvement of its service. The proceeds are to be used when and as liability to pay the cost of such improvements and betterments accrues or as obligations to pay money borrowed for such purposes mature.

At a hearing held in San Francisco on July 26, 1918, petitioner filed certain additional information as follows:

*Exhibit No. 1—Earnings Statement for year ending May 31, 1918;*

*Balance Sheet, and Summary of Bond Statement of May 31, 1918.*

*Exhibit No. 2—Proposed Capital Expenditures, 1918.*

Applicant estimates that it will be required to make construction expenditures amounting to \$820,835.92 between July 1, 1918, and December 31, 1918.

From testimony given at the hearing it appears that petitioner is being called upon to supply a constantly increasing demand for power, necessitating these expenditures for generating and distributing facilities. It is the intention of petitioner to use the proceeds of the bonds which it now desires to issue to pay in part for its construction expenditures to be incurred subsequent to June 30, 1918. I am of the opinion that applicant should be permitted to use the proceeds from the sale

of its bonds to pay in part for such construction expenditures set forth in Exhibit No. 2 of this petition, on the condition that before any part of the proceeds from the sale of the bonds are actually applied against said expenditures, petitioner will file with the commission a detailed statement of the expenditures which it desires to pay with the proceeds of bonds and shall have secured from the Railroad Commission a supplemental order or orders authorizing the expenditure of the proceeds of the bonds for the purposes to be specified in such supplemental order or orders.

I submit the following form of order :

**ORDER.**

San Joaquin Light and Power Corporation having applied to the Railroad Commission for authority to issue \$113,000.00 of its Series "C" 6 per cent first and refunding bonds, payable August 1, 1950, a hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that San Joaquin Light and Power Corporation be and is hereby granted authority to issue \$113,000.00 face value of its Series "C" 6 per cent first and refunding bonds, payable August 1, 1950, upon the following conditions:

1. The bonds herein authorized to be issued shall be sold by petitioner for cash at not less than 90 per cent of their face value.

2. The proceeds obtained from the sale of the bonds shall be deposited in a special fund and hereafter expended only for such purposes as the Railroad Commission may by a supplemental order or orders hereinafter designate.

3. San Joaquin Light and Power Corporation shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the corporation shall make verified reports to the Railroad Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

4. The authority herein granted shall not become effective until petitioner has paid the fee prescribed by the Public Utilities Act.

5. The authority herein granted shall apply only to such bonds as may be issued on or before December 15, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

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DECISION No. 5622.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AUTHORITY TO CREATE A NOTE INDEBTEDNESS IN THE SUM OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND TO SECURE THE SAME BY THE PLEDGE OF BONDS AND TO ISSUE, SELL AND DISPOSE OF SUCH NOTES TO THE EXTENT OF SIX HUNDRED NINETY THOUSAND DOLLARS FACE VALUE.

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Application No. 3868.

*Decided July 26, 1918.*

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BY THE COMMISSION.

**SUPPLEMENTAL ORDER.**

The Railroad Commission, by Decision No. 5528, dated July 1, 1918, having authorized Western States Gas and Electric Company to issue \$690,000.00 of five-year 6½ per cent collateral trust notes, and to issue and pledge as security for same \$931,500.00 of its first and refunding 5 per cent gold bonds maturing June 1, 1941; and it appearing that the State Banking Department requires the pledging of an additional \$27,600.00 of bonds in order to make the note issue a legal one for savings banks, and the company having agreed to keep on deposit with the trustee for the note issue, a sufficient amount of its first and refunding mortgage bonds so as to render the collateral trust notes legal investments for savings banks; and it appearing that the Western States Gas and Electric Company has since the showing made at the time of the original application added net new construction amounting to \$30,055.70; and the Western States Gas and Electric Company having requested the Railroad Commission to modify its original order so that bonds of the par value of \$959,100.00 may be issued and pledged to secure the notes heretofore authorized; and it appearing to the Railroad Commission that the applicant's request is a reasonable one and should be granted,

*It is hereby ordered* that the Western States Gas and Electric Company be and it is hereby authorized to issue and pledge \$959,100.00 of its first and refunding 5 per cent gold bonds, maturing June 1, 1941, as security for the payment of \$690,000.00 of five-year 6½ per cent collateral trust notes, payable August 1, 1923, this amount including \$931,500.00

authorized in the Railroad Commission's Decision No. 5528, and that in all other respects said decision shall remain in full force and effect, except as modified by this supplemental order.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

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DECISION No. 5623.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA NAVIGATION AND IMPROVEMENT COMPANY FOR AUTHORITY TO INCREASE RATES FOR WAREHOUSE SERVICE AT STOCKTON.

Application No. 3899.

IN THE MATTER OF THE APPLICATION OF STATE WAREHOUSE COMPANY FOR AUTHORITY TO INCREASE RATES FOR WAREHOUSE SERVICE AT STOCKTON.

Application No. 3900.

IN THE MATTER OF THE APPLICATION OF KEYS & ASHER FOR AUTHORITY TO INCREASE RATES FOR WAREHOUSE SERVICE AT STOCKTON.

Application No. 3902.

IN THE MATTER OF THE APPLICATION OF DICKINSON-NELSON COMPANY FOR AUTHORITY TO INCREASE RATES FOR WAREHOUSE SERVICE AT STOCKTON AND ROMAIN.

Application No. 3904.

IN THE MATTER OF THE APPLICATION OF FARMERS UNION AND MILLING COMPANY FOR AUTHORITY TO INCREASE RATES FOR WAREHOUSE SERVICE AT STOCKTON.

Application No. 3905.

IN THE MATTER OF THE APPLICATION OF GIRVIN WAREHOUSE COMPANY FOR AUTHORITY TO INCREASE RATES FOR WAREHOUSE SERVICE AT STOCKTON.

Application No. 3906.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA WHARF AND WAREHOUSE COMPANY FOR AUTHORITY TO INCREASE RATES FOR WAREHOUSE SERVICE AT STOCKTON.

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Application No. 3953.

*Decided July 26, 1918.*

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*Sanborn & Rochl*, for California Navigation and Improvement Company.

*Neumiller & Dietz*, for State Warehouse Company.

*B. M. Bainbridge*, for Keys & Asher.

*E. C. Dickinson*, for Dickinson-Nelson Company.

*E. C. Stowe*, for Farmers Union and Milling Company.

*Thomas L. Louttit*, for Girvin Warehouse Company.

*E. F. Fortune*, for California Wharf and Warehouse Company.

GORDON, *Commissioner*.

#### OPINION.

Petitioners in this proceeding operate public warehouses in the city of Stockton, commodities stored consisting very largely of grain, beans, and other farm products. One of the petitioners, Dickinson-Nelson Company, also owns and operates a grain warehouse at Romain Station located some 30 miles from Stockton on the line of Southern Pacific Company. Petitioners' requests are practically identical, with the exception of State Warehouse Company and Dickinson-Nelson Company, and the allegations in support thereof relate generally to increased cost of operations with special reference to the item labor. No increase in storage rates is contemplated by the petitioners. With the exceptions noted, petitioners ask authority to establish the following service charges to apply in addition to rates at present in effect, which rates include the classes of service enumerated, to wit:

For labor in receiving, storing or handling commodities, arriving by rail, water or team, all commodities other than potatoes and onions, 22 cents per ton. Potatoes and onions, 1 cent per sack.

For labor in delivering or loading commodities shipped out by rail, water or team, all commodities other than potatoes and onions, 25 cents per ton. Potatoes and onions, 1 cent per sack.

State Warehouse Company stores grain only, and has no interest in the establishment of rates for handling potatoes and onions. This petitioner's request differs in other respects from that of the majority, as appears from the following proposed rates:

Unloading and weighing, 25 cents per ton additional to present storage rates.

Loading out, 20 cents per ton additional to present storage rates.

Transferring (including 10 days storage), 75 cents per ton.

Loading or unloading "gondola" cars, 25 cents per ton.

Stenciling sacks, 5 cents per ton.

Delivering in lots less than 2 tons, 50 cents per ton.

Dickinson-Nelson Company asks for authority to collect the same additional charges for labor in receiving, handling and delivering grain, beans, etc., as are covered by petitions of its competitors, and also to alter the present minimum storage charge of 50 cents per ton, which includes two months' storage, applicable at Stockton, so as to allow but one month's storage under this rate. This petitioner does not store potatoes or onions.



Rates now in effect by petitioners were prescribed by the commission after public hearings held in the city of Stockton on individual applications and are, of course, based upon conditions existing at the time of such hearings. In the majority of instances the rates so established were authorized between July and November, 1917, and therefore prior to the existing abnormal labor situation. For an understanding of the basis upon which the present rates were authorized, reference is made to the decisions and records where also will be found a description of the properties involved. (Opinions and Orders of the Railroad Commission of California, Decision 3279, Vol. 9, p. 797; Decision 4492, Vol. 13, p. 605; Decision 4706, Vol. 14, p. 189; Decision 4717, Vol. 14, p. 204; Decision 4890, Vol. 14, p. 575; Decision 4910, Vol. 14, p. 626; Decision 5359, unbound.)

As stated, petitioners' requests are based upon alleged increases in the cost of operating their properties, with particular reference to labor which has advanced since June 1, 1918, from 40 cents per hour for a 9 hour day and 50 cents per hour for overtime, to 50 cents per hour for an 8 hour day and 75 cents per hour for overtime; or an increase from \$3.60 per day of 9 hours to \$4.75, being approximately 32 per cent. It is also claimed that the inefficiency of labor procurable at the present time, due to inexperience, disinclination to work and other causes, would approximate 18 per cent, so that the actual present additional outlay for labor alone would be 50 per cent greater than wages paid in 1917. Other operating expenses are alleged to have increased from 15 to 300 per cent.

As will be observed, the chief item of expense, labor, did not reach its present maximum until June 1, 1918, the beginning of the new storage season, and to that extent does not affect operating results for the 1917-18 storage period. Nevertheless, operating statements submitted by petitioners with two exceptions, show substantial losses for periods ending May 31, 1918, or prior thereto, as follows:

Name	For year ending	Operating revenue	Operating expense	Gain	Loss
Cal. Nav. and Imp. Co.....	12/31/17	\$17,677 35	\$20,613 18	-----	\$2,936 53
State Warehouse Co.....	4/30/18	16,562 60	17,617 94	-----	1,055 34
Keys & Asher.....	*	1,925 00	1,850 00	\$75 00	-----
Dickinson-Nelson Co. ....	5/31/18	3,000 00	4,301 91	-----	1,301 91
Farmers Un. and Mill. Co....	12/31/17	10,203 59	9,938 20	265 39	-----
Girvin Warehouse Co.....	5/31/18	13,410 28	13,912 20	-----	501 92
Cal. Whf. and Whse. Co.....	5/31/18	6,942 62	7,085 98	-----	143 36

\*7/1/17 1/1/18. Six months only.

A public hearing was held in the city of Stockton on July 18, 1918, at which time petitioners presented testimony in support of their prayer for increased rates. No one appeared at the hearing to protest the pro-

posed increases, notwithstanding the fact that individual written notice had been mailed to each patron of the various warehouses. The testimony showed beyond question that the cost of labor and all materials and supplies entering into the expense of warehouse operations has materially advanced and that additional burdens along the same lines will have to be met in the future. I am convinced that increases in rates have been justified and should be granted.

While, as previously noted, applications presented by two of the petitioners vary somewhat from the other five, they are in the main identical, and there was nothing in the evidence to show dissimilarity of service at any of the warehouses which would call for the establishment of a scale of rates at one warehouse at variance with the general schedule. For this reason, State Warehouse Company's request for specific increases for incidental service will be denied, but the proposed increase for unloading, weighing and loading out will be advanced to the rate requested by all other petitioners and justified by the testimony.

In the interest of uniformity, Dickinson-Nelson Company, in addition to the increase for receiving and delivering commodities, will be permitted to modify the minimum charge applicable in its Stockton warehouse, so as to make the present rate of 50 cents for two months apply for one month only.

I recommend the following form of order:

#### ORDER.

California Navigation Improvement Company, State Warehouse Company, Keys & Asher, Dickinson-Nelson Company, Farmers Union and Milling Company, Girvin Warehouse Company and California Wharf and Warehouse Company having applied to this commission for an order authorizing an increase in warehouse charges, a public hearing having been held thereon, and the commission being fully advised in the premises, it is hereby found as a fact that the rates now in effect at warehouses operated by petitioners at Stockton and Romain, in so far as they differ from the rates herein set forth, are unjust and unreasonable, and that the rates herein established are just and reasonable rates.

*It is hereby ordered* that the above named petitioners be and they are hereby authorized to charge and collect, in addition to rates at present in effect, the following charge for the service indicated, to wit:

For labor of receiving, trucking, piling, weighing and handling commodities arriving at petitioners' warehouses via rail, vessel or team, all commodities other than potatoes and onions, 22 cents per ton. Potatoes and onions, 1 cent per sack.

For labor of handling, trucking, delivering and loading out commodities delivered from petitioners' warehouses to car, vessel or team, all commodities other than potatoes and onions, 25 cents per ton. Potatoes and onions, 1 cent per sack.

*It is further ordered* that schedules embracing the rates herein authorized may be filed with this commission to take effect on August 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

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DECISION No. 5624.

IN THE MATTER OF THE APPLICATION OF PENINSULAR RAILWAY COMPANY FOR PERMISSION TO INCREASE PASSENGER FARES.

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Application No. 3789.

*Decided July 26, 1918.*

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INCREASE OF FARES—ELECTRIC INTERURBAN AND LOCAL SERVICE.—Electric inter-urban and street railway rates increased to take care of increased operating expenses. Six cent street railway fare established in street car districts.

*Wm. F. James, Louis Oncal and Frank Karr, for Applicant.*

*Earl Lamb and Thos. H. Reed, for city of San Jose.*

*Norman E. Malcolm, for city of Palo Alto.*

*D. T. Jenkins, for town of Los Gatos.*

*W. F. Hyde, for Los Altos Improvement Club.*

LOVELAND, *Commissioner.*

**OPINION.**

Applicant is a corporation operating an electric railroad for the transportation of freight and passengers in and about the cities of San Jose and Palo Alto and between points in the territory coterminous with Palo Alto on the north, Los Gatos on the south, San Jose and Alum Rock Park on the east and Congress Springs on the west, all in the county of Santa Clara.

Alleging that present revenues are insufficient to overcome operating expenses and certain fixed charges and directing attention to deficit of some \$223,000.00 for fiscal year ending April 30, 1918, applicant requests increases in its passenger fares sufficient, when added to the present passenger revenue and that derived from other sources, to enable it to meet the annual fixed charges and operating costs.

Application was supplemented by exhibits filed at the hearing one of which consisted of a tariff containing the proposed rates or fares. These rates are based generally three cents per mile for single fares and one cent per mile for commutation fares, observing as a maximum the short line mileage rates of competing line at common points. In some instances this results in reductions, but in most cases increases are brought about on account of the low basis previously employed.

The new rate schedule eliminates the thirty-ride family ticket and in lieu thereof proposes a cash coupon ticket containing 125 coupons

at a face value of 5 cents each entitling the holder of each coupon to ride thereon; in other words, interchangeable, which will be sold for \$5.00 or a reduction of 20 per cent.

This tariff also contemplates cancellation of 46-ride commutation ticket to San Jose and 50-ride ticket to Stanford. These tickets were originally established for the benefit of students over 19 years of age, but it is testified they were misused and usurped the place of the 60-ride ticket.

The arrangement for the sale of certain round-trip tickets by conductors, also four and ten-day round trips, and Saturday to Monday fares are likewise abolished.

On the street car divisions it is proposed to increase the fare from 5 to 7 cents with privilege of purchasing tickets good within the 7-cent fare zone in blocks of 5 for 30 cents.

The new schedule will in general conform as closely as practicable to that in effect on the line of its federal-controlled competitor, the Southern Pacific Company.

The following table shows present and proposed rates between some of the more important points:

	One way	Daily commuta- tion	46-ride school commuta- tion	Round trip Sundays and holidays
Between San Jose and Los Altos—				
Present .....	\$0.35	\$6.00	\$1.20	\$0.50
Proposed .....	.45	6.60	5.10	.75
Between San Jose and Mayfield—				
Present .....	.50	6.00	4.65	.50
Proposed .....	.50	6.60	5.10	.75
Between San Jose and Palo Alto—				
Present .....	.50	6.00	4.65	.50
Proposed .....	.50	6.60	5.10	.75
Between San Jose and Saratoga—				
Present .....	.20	4.80	2.75	.25
Proposed .....	.35	6.70	5.15	.50
Between San Jose and Los Gatos—				
Present .....	.25	5.00	3.00	.40
Proposed .....	.35	7.40	5.70	.70
Between Los Gatos and Los Altos—				
Present .....	.50	9.15	5.45	.50
Proposed .....	.50	9.30	7.15	.85
Between Los Gatos and Mayfield—				
Present .....	.65	9.35	5.65	.50
Proposed .....	.65	11.40	8.75	1.05
Between Los Gatos and Palo Alto—				
Present .....	.70	9.35	5.65	.50
Proposed .....	.70	12.60	9.70	1.05
Between Los Gatos and Saratoga—				
Present .....	.10	3.00	2.30	-----
Proposed .....	.15	3.60	2.00	-----
Between Los Altos and Mayfield—				
Present .....	.15	3.00	2.80	-----
Proposed .....	.15	3.60	1.85	-----
Between Los Altos and Palo Alto—				
Present .....	.20	3.45	2.80	-----
Proposed .....	.20	3.60	2.55	-----

	One way	Daily commuta- tion	46-ride school commuta- tion	Round trip Sundays and holidays
Between Los Altos and Saratoga—				
Present .....	\$0.40	\$9.00	\$4.20	\$0.50
Proposed .....	.40	6.75	5.15	.55
Between Los Altos and Los Gatos—				
Present .....	.50	9.35	5.45	.50
Proposed .....	.50	9.30	7.15	.85
Between Palo Alto and Los Altos—				
Present .....	.20	3.45	2.80	-----
Proposed .....	.20	3.60	2.55	-----
Between Palo Alto and Mayfield--				
Present .....	.05	3.00	-----	-----
Proposed .....	.10	3.60	1.85	-----
Between Palo Alto and Saratoga—				
Present .....	.60	9.00	5.65	.35
Proposed .....	.60	10.05	7.60	.75
Between Palo Alto and Los Gatos--				
Present .....	.70	9.35	5.65	.50
Proposed .....	.70	12.60	9.70	1.05

Before proceeding to a discussion of the issues involved in this action it is appropriate to give a brief description of the property and character of its traffic supplementary to that appearing in the introductory portion of this opinion.

For the purpose of this report, petitioner's line may be roughly divided into three traffic districts consisting of

1. Joint San Jose Railway-Peninsular Railway Division between points in San Jose and Alum Rock Canyon.
2. Campbell-Los Gatos Division consisting of line between San Jose and Los Gatos via Campbell.
3. Main Division, or balance of line, viz: San Jose to Congress Springs and north of Congress Junction to Palo Alto.

There are also two minor divisions consisting of street car lines in Palo Alto and the Fifteenth street or Nagle Park line in San Jose.

As to the first division this is being considered under application of like character on part of the San Jose Railroads, and it is therefore unnecessary to make further comment herein.

Travel on the Campbell-Los Gatos division is comparatively light and confined almost entirely to commutation traffic. This portion of the line parallels the highways and is subject to sharp competition of automobile lines which quote the same one-way fares as petitioner, but have not yet met its commutation rates. This no doubt accounts for the character of travel on this portion of the property.

On the main division there is a considerable steady current of travel between San Jose, Palo Alto and intermediates under one-way and round-trip fares.

Applicant's traffic manager testified that travel on this line is extremely heavy at the present time due to the establishment of an Army division at Camp Fremont. This has resulted in a material increase in passenger revenue which it is testified will diminish with the discontinuance of the camp.

Traffic in the territory between San Jose and Monta Vista and between Palo Alto and Monta Vista is confined largely to commutation and school travel.

The main division is in keen competition with automobile lines which cut the one-way fare between Palo Alto and San Jose 5 cents and meet the four-day round trip rate of 75 cents, but have not yet adopted the low daily round trip rate of 50 cents between these points.

It is the opinion of the transportation company's traffic manager that this company will be unable to secure the proposed increases, if granted, unless a corresponding advance is made on part of the auto lines. Approximately 80 per cent of applicant's operating revenue is derived from passenger traffic.

The company has an outstanding bonded indebtedness of \$500,000.00 covered by first mortgage bonds, which are held by the Southern Pacific Company to the extent of \$379,000.00 and by the public to the amount of \$121,000.00. There is also an open book account with the Southern Pacific Company showing an outstanding indebtedness as of date above mentioned of \$4,630,711.25, consisting of principal advanced to applicant for additions and betterments and accrued interest thereon. The physical valuation of this road as presented by applicant as of April 30, 1918, is \$4,530,839.19.

Applicant filed an exhibit consisting of statement of revenues and expenses showing actual figures for year ending April 30, 1918, and estimated amounts for 12 months period ending May 31, 1919, from which the following figures have been taken:

	Year ending April 30, 1918 (actual)	Year ending May 31, 1919 (estimated)
Operating revenue .....	\$269,669 39	\$322,290 91
Operating expenses .....	219,545 63	254,049 74
Net operating revenue.....	\$50,123 76	\$68,241 17
Taxes .....	16,518 55	18,495 00
Operating income .....	\$33,605 21	\$49,746 17
Nonoperating income .....	37,654 93	36,298 68
Total income .....	\$71,260 14	\$86,044 85
Deductions from total income—		
Rents and interest on debt.....	294,472 87	306,121 84
Deficit .....	\$223,212 73	\$220,076 99

The estimated operating revenues for the year ending May 31, 1919, are based on an increase in passenger revenue of \$45,430.67 under proposed tariff and increase of some \$10,000.00 in freight rates already allowed which figures are predicated on past movement of passengers and freight.

It will be noted from the foregoing table that while approximately \$55,000.00 additional revenue will be acquired it will not be sufficient to overcome the enormous deficit which will be encountered at the end of the fiscal period. This is due mainly to large interest debits which will be later discussed and to increased operating costs.

In the latter regard exhibits were introduced showing present and estimated expenses of operation from one of which the following tabulation has been prepared:

*Railway Operating Expenses for Year Ending April 30, 1918, and Estimated Costs for Year May 31, 1919.*

	Year ending April 30, 1918 (actual)	Year ending May 31, 1919 (estimated)
1. Way and structures.....	\$19,229 57	\$37,605 88
2. Equipment .....	25,221 73	29,557 39
3. Power .....	50,225 53	50,358 36
4. Conducting transportation .....	85,117 34	97,477 11
5. Traffic .....	2,416 95	1,739 88
6. General and miscellaneous.....	38,116 30	38,111 12
7. Transportation for investment credit (deduct).....	—781 79	—800 00
Total operating expenses.....	\$219,515 63	\$254,049 74

The items appearing in the first column represent amounts actually expended. The estimated figures in the second column are mainly predicated on increased wages and costs of materials and supplies although in some instances necessary renewals of track and equipment are contributory factors.

By way of illustration of increased wages applicant presented an exhibit setting forth the wages paid in December, 1915, and June, 1918, showing in the first instance a monthly pay roll of \$10,974.00 for 148 employees in the various departments or an average of \$74.00 versus \$13,792.00 or an average of \$93.00 for the latter period.

Information was also furnished with respect to advance in prices of materials and supplies. It is unnecessary to discuss this in detail but suffice it to say that practically every article entering into the construction and operation of this carrier has materially advanced in price, the increases over 1915 figures in many instances exceeding 100 per cent. It is estimated that the advance as a whole will easily approximate 75 per cent.

Applicant's financial status will be clearly portrayed by the following figures, which were prepared from its annual reports by the commission's auditing department:

*Income Balance Transferred to Profit and Loss (deficit).*

June 30, 1911	-----	\$110,097 60
June 30, 1912	-----	114,708 65
June 30, 1913	-----	138,782 64
June 30, 1914	-----	196,240 34
June 30, 1915	-----	219,529 59
June 30, 1916	-----	232,421 18
December 31, 1916	-----	238,794 64
December 31, 1917	-----	230,430 84

The annual losses sustained by applicant have been met by loans from the Southern Pacific Company, as disclosed by an exhibit on behalf of petitioner, showing a balance due the latter on June 30, 1911, of \$2,526,566.03, which by additional advances and accrued interest made a balance as of April 30, 1918, of \$4,539,601.13.

Evidence discloses that every effort has been made to effect economies in operation. The accounting department is conducted in conjunction with other companies at Los Angeles so as to reduce clerical expense to a minimum. One-man cars have been established on the street car divisions wherever practicable, and a constant supervision is maintained over all service matters to keep expenses at the lowest figure possible.

It is clearly apparent from the testimony and exhibits that applicant's operating revenue is insufficient and that immediate relief must be granted if an adequate service is to be continued.

On account of the rapidly increasing operating costs and necessity for additional expenditures due to deferred maintenance, it is apparent that the revenue resulting from proposed increases will be entirely absorbed by these items, but the company feels that it can not secure any higher rates at the present time, owing to competitive influences.

Applicant is not asking a return on investment, but simply enough revenue to meet its operating and other necessary expenses without giving any consideration to amounts due Southern Pacific Company.

Practically no objection was offered to the proposed advance in fares, it being generally conceded that the company is entitled to additional revenue.

This road is not only of great convenience to the traveling public making regular use of its facilities, but is particularly essential at the present time to the welfare of the military establishment at Camp Fremont and nothing should be allowed to impair the much needed service which it is in position to render.



Petitioner proposes a 7-cent fare in the street car districts, with privilege of purchasing books containing five rides for 30 cents, which figures 6 cents per ride. An alternative arrangement of this kind is unsatisfactory and more or less discriminatory. A better solution of the problem is to publish a straight 6-cent cash fare.

After careful consideration of the evidence submitted, I am of the opinion that present fares of this company are insufficient and that application to make the increases set forth in Exhibit "B" should be granted, with the modification that a straight 6-cent cash fare should be established in the street car districts and a corresponding reduction made in through fares based upon this figure.

That portion covering traffic between San Jose and Alum Rock Park should be dismissed, as it is being considered in similar application of the San Jose Railroads.

The following form of order is submitted:

**ORDER.**

The Peninsular Railway Company having applied under Section 63 of the Public Utilities Act for permission to increase certain passenger fares, as set forth in the opinion which precedes this order, a public hearing having been held and the Railroad Commission being fully apprised in the premises, the Railroad Commission hereby finds as a fact that the existing fares of petitioner are insufficient and that the rates herein established are just and reasonable rates.

Basing this order on the foregoing finding of fact and on the further findings of fact contained in the opinion which precedes this order.

*It is hereby ordered* that the portion of application covering fares between San Jose and Alum Rock Park be dismissed.

*It is hereby further ordered* that the Peninsular Railway Company be and the same is hereby authorized to establish within twenty (20) days from the date of this order the fares contained in Exhibit "B," except the 7-cent fares, with privilege of purchasing books containing five rides for 30 cents. In place of the 7-cent fare applicant is authorized to establish a straight cash fare of 6 cents and shall make corresponding changes in through fares based on this figure.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

## DECISION No. 5628.

IN THE MATTER OF THE APPLICATION OF ORO LOMA FARMS COMPANY TO TRANSFER ITS WATER SYSTEM TO A CORPORATION HEREAFTER TO BE FORMED.

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Application No. 3443.

*Decided July 26, 1918.*

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*Louis V. Crowley*, representing *Louis Oneal*.

*Goodfellow, Eels, Moore & Orrick*, by *C. J. Goodell*, for Oro Loma Farms Company.

*A. S. McCurdy*, for Protestants.

BY THE COMMISSION.

**OPINION.**

This is an application of the Oro Loma Farms Company that an order be made by this commission granting said company permission and authority to transfer all its physical water properties, wells, pumps, reservoirs, pipe lines, distributing system and equipment, to a mutual water company. The application herein was filed by the Oro Loma Farms Company to meet a situation in its affairs which was produced by the commission's opinion and order given in Case No. 1056, *Berry et al. vs. Oro Loma Farms Company*, on the twenty-first day of July, 1917.

This commission found that the Oro Loma Farms Company is a public utility water company engaged in the business of distributing water for irrigation and domestic use within the boundaries of an area of land in Merced and Fresno counties, known as Oro Loma Farms.

The Oro Loma Farms Company is a corporation formed for the purpose of placing upon the market a tract of land in Merced County. Incidental to the marketing of said tract of land, wells were sunk and water developed for sale and distribution solely within that area. The contracts of sale of portions of their tract provided that as various portions of the tract became settled, the company would cause to be organized mutual water companies and would turn over its water production and distribution systems to the mutual water companies, thereby transferring to the settlers both the land and the water. Many contracts of such nature are outstanding and it is for the purpose of permitting the Oro Loma Farms Company to carry out its contractual obligations that applicant herein has filed this petition. No persons outside of the Oro Loma Farms tract are being served with water at the present time by applicant herein. Its water delivery is confined to lands where it is bound by contracts which provide for formation of mutual water companies.

At the hearings held on this application, the water users, all of whom are entitled to become stockholders in the Oro Loma Farms Irrigation Company, appeared and without exception joined in the application herein.

#### ORDER.

Applicant herein having filed with this commission its application for permission to transfer all its physical water properties, wells, pipe lines, reservoirs, distributing system and equipment of whatsoever kind and character to a corporation to be hereafter formed and known as the Oro Loma Irrigation Company, in accordance with the proposed articles of incorporation, which said articles were filed with this commission on February 9, 1918.

A public hearing having been held thereon, the matter having been submitted and now being ready for decision,

*It is hereby ordered* that Oro Loma Farms Company, a corporation, be and it is hereby authorized to transfer all of its physical water properties, wells, pipe lines, reservoirs, pumps, distributing system and equipment of whatsoever kind and character to Oro Loma Irrigation Company, organized to serve water to its stockholders and to owners of portions of lands described as follows:

Oro Loma Tract, as per map thereof recorded June 24, 1912, in Book 1, at page 42, of Miscellaneous Maps in the office of the County Recorder of Fresno County, California.

Oro Loma Tract No. 2, as per map thereof recorded July 23, 1913, in Book 1, at page 44, of Miscellaneous Maps in the office of the County Recorder of Fresno County, California.

Oro Loma Tract No. 3, as per map thereof recorded July 23, 1913, in Book 1, at page 45, of Miscellaneous Maps in the office of the County Recorder, Fresno County, California.

The southeast quarter (SE $\frac{1}{4}$ ) of section twenty-five (25), township twelve (12) south, range eleven (11) east, Mount Diablo base and meridian, according to the United States Government surveys.

The south 240.14 acres of fractional section six (6); the southeast quarter (SE $\frac{1}{4}$ ) of section nineteen (19); and the west half (W $\frac{1}{2}$ ) and the west one-third (W $\frac{1}{3}$ ) of the east half (E $\frac{1}{2}$ ) of section thirty (30), all in township twelve (12) south, range twelve (12) east, Mount Diablo base and meridian, according to the United States Government surveys.

The authority herein granted is granted upon the following conditions and not otherwise:

First. That a certified copy of the articles of incorporation of Oro Loma Irrigation Company, a copy of its by-laws and a list of its stockholders, be filed with this commission.

Second. That a list of persons with whom the Oro Loma Farms Company has contracted to form said mutual water company and who contracted to issue stock shall be filed with this commission.

Third. The transfer of the property herein authorized must be made within ninety days from the date of this order.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

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DECISION No. 5630.  
CITY OF SAN BRUNO

vs.

HENSLEY-GREEN COMPANY, AS SAN BRUNO WATER COMPANY.

---

Case No. 1119.

*Decided July 26, 1918.*

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W. J. Locke, for Complainant.

Norman W. Hall, for Defendant.

BY THE COMMISSION.

**OPINION AND SUPPLEMENTAL ORDER.**

Decision No. 4780 of October 22, 1917, relating to water service at San Bruno, San Mateo County, contains the following order:

*"It is hereby ordered* that the Hensley-Green Company file, within thirty (30) days from the date of this order, plans for the improvement of its system to provide for a pressure of not less than twenty pounds per square inch at all points on the distribution system where there are consumers, the plans filed to include connection not less than two inches in diameter with the pipe mains of the Spring Valley Water Company, and the installation of meters at the option of the consumers or the utility but at the expense of the Hensley-Green Company or San Bruno Water Company.

*It is further ordered* that within thirty days of the date of the approval of the plans filed, the Hensley-Green Company commence construction and exercise due diligence in its completion."

(See Vol. 14, Opinions and Orders of the Railroad Commission of California, p. 340.)

Various orders were made by the commission extending the effective date of the above order to April 20, 1918. These orders were made upon the informal representation that effort was being made to consolidate the three systems serving water in San Bruno, provided suitable franchise could be procured from the city and either operate them privately or sell them to the city of San Bruno and that the poor service complained of would be remedied upon the consolidation or sale of the properties in question.

The application to the city for franchise for the consolidated properties and the proposal to sell the properties to the city were both

rejected and subsequently the trustees submitted to the city a proposal to issue bonds for \$140,000.00 for the construction of a new municipal water system, which proposal was defeated by the voters.

Subsequently defendant applied to the commission for such a modification of the order above quoted as to allow defendant to develop its own water supply by cleaning out its wells and if necessary boring additional wells, all requirements of the order otherwise to be held in abeyance until it could be shown whether the supply would be sufficiently increased and the lack of pressure overcome.

At the request of the city, public hearing was held upon the application for modification of the order, at San Bruno, by Examiner Westover.

At the hearing it was shown that defendant was then engaged in cleaning out its wells, that it believed and was advised that this process would increase its water supply to such an extent that it would not be necessary to purchase water. It also developed that some misunderstanding existed as to the terms and conditions under which Spring Valley Water Company would permit the physical connection originally ordered.

The commission, through its engineers, promptly took up the matter of these misunderstandings with the Spring Valley Water Company, with the result that a basis of agreement was quickly reached upon terms satisfactory to that company and to defendant. The original order did not require the purchase of water. It required establishment of a physical connection so that defendant would be able to procure an ample auxiliary supply in case of emergency or need.

Plans referred to in the original order by which it was expected that defendant would indicate portions of its system in which larger mains would be substituted for the present mains have not been filed.

Defendant did not show at the hearing or at any other time any necessity for modification of the original order. Defendant has had ample time in which to improve the conditions complained of and has not shown a satisfactory effort in good faith to comply with the terms of the order. No further extension of time beyond that contained in the order herein will be granted.

#### SUPPLEMENTAL ORDER.

Application having been made by defendant for modification of the original order herein in the particulars described in the above opinion, public hearing having been held thereon and defendant having failed to make a showing which would justify a modification of the original order quoted in the above opinion, the application for modification thereof is denied.

*It is hereby ordered* that defendant, Hensley-Green Company, provide within three days from date hereof a  $\frac{3}{4}$ -inch connection of its system

with the high pressure water main of the Spring Valley Water Company, at or near the Catholic Church, San Bruno, and within ten days from date hereof file with the commission plans for the improvement of its system to provide for a pressure of not less than twenty pounds per square inch at all points on the distribution system where there are consumers, and the installation of meters at the option of the consumers or the utility but at the expense of the Hensley-Green Company or San Bruno Water Company.

*It is further ordered* that within thirty days after the date of the approval of the plans filed, the Hensley-Green Company commence construction and exercise due diligence in its completion.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

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DECISION No. 5636.

IN THE MATTER OF THE APPLICATION OF SAN JOSE RAILROADS  
FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES  
FOR THE TRANSPORTATION OF PASSENGERS.

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Application No. 3788.

*Decided July 26, 1918.*

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INCREASE IN PASSENGER RATES ELECTRIC RAILWAY.—Passenger rates increased to take care of increased operating expenses.

Decision holds commission has jurisdiction to fix rates other than those provided in franchises to railway.

Six cent fare established in street car districts.

*William F. James, Louis Oncal and Frank Karr*, for Applicant.

*Earl Lamb and Thomas H. Reed*, for city of San Jose.

LOVELAND, *Commissioner*.

OPINION.

This is an application on behalf of the street railway corporation operating in the city of San Jose and its suburbs and between San Jose and Santa Clara, all within the confines of Santa Clara County.

The petition alleges that the revenues of this company are insufficient to meet its operating expenses and fixed charges, in support of which it attaches an exhibit showing a deficit of \$131,602.60 for the twelve months' period ending April 30, 1918, and directs attention to additional financial burdens already allowed and advances under consideration, concluding with a prayer that the commission authorize increased passenger fares in accordance with a schedule to be submitted, which will permit it to meet fixed charges and operating expenses.

**Fares.**

The present one-way fare is now 5 cents, except to points east of Capitol avenue, on the Linda Vista line, where the charge is 10 cents, with reduced fares for school children and a 30-ride family commutation fare. The system is divided into eleven operating lines, with transfer privileges to connecting cars moving in the same general direction.

Exhibit No. 2, submitted at the hearing by applicant's traffic manager, shows in detail the fares it desires to establish. The one-way fare is increased from 5 cents to 7 cents, new stops are established and joint fares published to Alum Rock and intermediate points in connection with the Peninsular Railway Company. The Alum Rock fare is to be increased from 10 cents to 15 cents, and intermediate fares in proportion; tickets to be sold in lots of five or more at rate of 6 cents, such tickets to be without time limit and good for passage of bearer. It is also proposed to issue cash coupon books, with 125 coupons, having a transportation value of 5 cents each, to be sold at \$5.00, unrestricted in their use, and honored between any points where the fare is 10 cents or more. School children's 46-ride tickets will be issued on a graduated scale at practically 60 per cent the charge for adults.

A witness for applicant testified that in his judgment approximately 75 per cent of all passengers would move on coupon tickets instead of paying the straight cash fare of 7 cents, or the fares in the other zones where the charge is 10 cents and over.

Mr. Paul Shoup, the company's vice president, did not agree that a cash fare of 7 cents, with tickets at 6 cents, would produce satisfactory results; he was inclined to the establishment of a straight 6 cent fare, with 4 cents for school children, but suggested that the rates be left to the judgment of the commission.

**Description of Property.**

The San Jose Railroads is an electric line operating a total of 42.62 miles of track. Of this mileage 27.05 is main line within the cities of San Jose and Santa Clara, 11.75 is second track, 1.40 is joint track, with 2.42 sidings and turnouts. The lines connect with the Peninsular Railway Company at Second and Market streets, San Jose.

Applicant does not seek to secure a return based on the value of its property devoted to the public service, but is merely endeavoring to obtain sufficient revenue to meet fixed charges and operating expenses, giving no consideration to valuations. However, it might be well to state that the total book value, as shown by its annual report on file with this commission as of December 31, 1917, was \$8,715,805.14. The company has outstanding two bond issues; the first amounting to \$1,152,000.00, secured by a mortgage dated April 2, 1906, against the

San Jose and Santa Clara County Railroad Company; the second, amounting to \$1,373,000.00, secured by a mortgage dated January 1, 1910, against the San Jose Railroads, making a total of \$2,525,000.00. Interest on the first mentioned bonds is at the rate of  $4\frac{1}{2}$  per cent and on the second 5 per cent per annum. In addition to this bonded indebtedness there is due the Southern Pacific Company on an open book account \$684,732.05, covering principal and interest, and applicant also has an interest liability against its bonds, matured and unpaid, of \$275,937.50, or a total secured and unsecured indebtedness of \$3,485,669.55.

**Revenue and Expenses.**

This commission's auditor submitted an exhibit showing financial conditions. It includes balance sheet, income sheet, profit and loss statement and the operating revenues and operating expenses for the years June 30, 1912, to and including December 31, 1917.

It will only be necessary to produce here the income statement, as follows:



**SAN JOSE RAILROADS.**  
**Income Statement Year Ending June 30, 1912, to December 31, 1917.**

	June 30, 1912	June 30, 1913	June 30, 1914	June 30, 1915	June 30, 1916	December 31, 1916	December 31, 1917
<b>Operating income—</b>							
Railway operating revenues.....	\$213,038 78	\$366,951 76	\$358,711 13	\$316,517 48	\$329,531 76	\$320,612 58	\$309,383 48
Railway operating expenses.....	146,666 37	251,188 15	247,932 73	219,463 53	239,929 06	244,630 03	256,065 83
Net revenue .....	\$66,372 41	\$115,763 61	\$110,778 40	\$97,053 95	\$89,602 70	\$75,982 55	\$52,777 65
Taxes assignable to railway operations.....	8,375 72	14,908 31	18,081 38	19,045 75	20,619 45	19,094 78	20,880 52
Total operating income.....	\$57,996 69	\$100,855 30	\$92,697 02	\$78,008 20	\$68,983 25	\$56,887 77	\$31,917 13
<b>Nonoperating income—</b>							
Miscellaneous rent income.....	\$493 75	\$1,288 69	\$948 66	\$1,202 56	\$896 41	\$403 67	\$19 30
Income from unfunded securities and accounts.....	12,245 58	34,865 40	42,332 96	5,368 81	2,908 34	255 35	224 58
Miscellaneous income .....		2 20		110 99	25 82	100 50	4 61
Total nonoperating income.....	\$12,739 33	\$36,156 29	43,281 62	6,482 36	3,830 57	759 52	269 89
Gross income .....	\$70,736 02	\$137,011 59	\$135,978 64	\$84,490 56	\$72,813 82	\$57,647 29	\$32,127 02
<b>Deductions from gross income—</b>							
Miscellaneous rents .....					\$35 00	\$55 00	\$95 00
Interest on funded debt.....	\$66,399 25	\$134,550 00	\$142,050 00	124,096 67	122,864 00	122,239 00	120,878 62
Interest on unfunded debt.....	16,266 08	23,810 38	43,473 18	33,298 85	39,046 09	41,244 54	50,068 08
Amortization of discount on unfunded debt.....	656 00	2,512 80	2,516 18	2,512 80	2,512 80	2,512 80	2,512 80
Miscellaneous debits .....		7,416 66		524 36	977 43	572 27	566 15
Total deductions from gross income.....	\$83,321 33	\$168,289 84	\$188,039 36	\$160,432 68	\$165,455 32	\$166,623 61	\$174,120 65
Income balance transferred to profit and loss .....	\$12,585 31	\$31,278 25	\$32,060 72	\$75,712 12	\$92,641 50	\$108,976 32	\$141,993 63

Applicant's greatest operating revenue was \$366,951.76 for the year ending June 30, 1913. This source of revenue fell to \$309,383.48 for the year ending December 31, 1917. Operating expenses, year ending June 30, 1913, totalled \$251,188.15, and for the year ending December 31, 1917, \$256,605.83. These operating expenses declined during the years 1913-14-15-16, and increased some \$12,000.00 in 1917 over 1916. Taxes were \$14,908.31 for the year ending June 30, 1913, and \$20,860.52 for the year ending December 31, 1917, or an increase of approximately \$6,000.00. Gross income declined from \$137,011.59 in 1913 to \$32,127.02 in 1917. Interest on funded debt shows a gradual decrease, while interest on unfunded debt rose from \$23,810.38 in 1913 to \$50,068.08 for the year ending December 31, 1917. Attention is directed to the continued and increasing net loss: for the year ending June 30, 1912, the deficit was \$12,585.31, while for the twelve months ending December 31, 1917, it was \$141,993.63.

The total railway operating expenditures have not materially increased since the peak year of 1913, but this result was accomplished by reductions in service, deferment of proper repairs to ways, structures, equipment and in the conducting of transportation.

Applicant's Exhibit No. 7 gives the actual operating expenses for the twelve months ending April 30, 1918, and the approximate expenses for the twelve months ending May 31, 1919, and shows an estimated increase in operating expenses of nearly \$20,000.00. Materials and supplies have steadily increased, some as much as 100 per cent, and labor costs have continually grown: in December, 1915, the average monthly pay of one hundred platform men was \$78.18, in 1916 it was \$81.25, in 1917 \$94.97, while for the month of June, 1918, the average for the same number of men was \$96.78, an increase of 24 per cent.

#### Franchises.

Some opposition developed from the city of San Jose as to the authority of this commission to disregard 5-cent provisions of franchise ordinances granted to petitioner by different municipal and county authorities. Practically all of the franchises, as shown by Exhibit No. 12, provide for a fare not greater than 5 cents within certain limits. These franchise provisions would be violated if this application were granted. While this commission gives great consideration to franchises and contractual relations entered into between communities and transportation companies, it has heretofore held that it has the authority to permit or order changes in rates when circumstances make such action necessary. (Decision No. 2816—*Town of Sausalito vs. Marin Water and Power Co.*, Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 252.)

As to street railroads, the commission has direct power under section 27 of the Public Utilities Act:

"No street or interurban railroad corporation shall charge, demand, collect or receive more than five cents for one continuous ride in the same general direction within the corporate limits of any city and county, or city or town, except upon a showing before the commission that such greater charge is justified; *provided*, that until the decision of the commission upon such showing, a street or interurban railroad corporation may continue to demand, collect and receive the fare lawfully in effect on November 3, 1914."

**Emergency.**

The facts presented reveal an actual emergency in the affairs of this applicant. Since 1913 revenues have been insufficient to even pay operating expenses and interest on bonds, to say nothing of the interest due on unsecured debts or a return to stockholders. Profit and loss statement for year ending December 31, 1917, shows a total debit of \$645,123.08. In 1917 the net loss, as heretofore shown, was \$141,993.63.

The evidence disclosed economy in the management and operation of the property. Wages and salaries are in some instances below the present standards, but the actual performance on the different lines appears to be reasonably efficient. In some sections the service is being performed with one-man cars and more are soon to be installed. Further reductions in operating expenses can only be reached by the rendering of inadequate and unsatisfactory service.

The valuation of this property has been given no consideration in this proceeding.

The city manager of San Jose interposed objections to the increasing of fares between San Jose and Alum Rock Park, but withdrew the same after the vice president of the railroad had agreed to establish round trip tickets, with coupons attached, for the use of certain concessions in the park, and to protect the city against loss because of the changes in rates.

Railroads are merely the servants of the public, and the costs entering into their operations must be reflected in the rates charged. It is, therefore, to the interest of all that these street railroads and other utilities be kept from financial difficulties in order that their efficiency be not impaired during this war crisis. This applicant presents an extreme situation and even if the high cost of living, due to the war, had not developed, it would be in need of increases in rates.

I am in accord with the suggestion of Vice President Shoup that better financial results may obtain from a straight 6-cent cash fare than from a cash fare of 7 cents, with tickets at 6 cents. The straight

cash fare will also remove discriminations between passengers within the street car zone.

After carefully considering all evidence submitted by petitioner in justification of the proposed increases, the statements and arguments by intervenors, city of San Jose, and the exhibit prepared by our auditor, I am of the opinion and find that the present rates of applicant are unremunerative.

I recommend that the San Jose Railroads be authorized to make the following increases: Street car fares from 5 cents to 6 cents; joint one-way fare between San Jose and Alum Rock from 10 cents to 15 cents, and to issue coupon books containing 125 coupons having a transportation value of 5 cents per coupon, for \$5.00, to be honored only between points where the fare is 10 cents or over. Also that applicant be authorized to make other adjustments as outlined in its Exhibit No. 2 not in conflict with the rates specifically set forth above.

I submit the following form of order:

#### ORDER.

Public hearing having been held in above-entitled proceeding, testimony having been presented, the case having been submitted for decision, and the Railroad Commission having reached the conclusion that rates now being charged are unjust and unreasonable,

*It is hereby ordered* that the San Jose Railroads be authorized to establish within twenty (20) days from the date of this order the following rates, which are found to be just and reasonable:

Street car fare, 6 cents (with usual transfers for use in same general direction within the street car zone limits).

Between San Jose and Alum Rock, one-way fare, 15 cents. (Joint fare with Peninsular Railway.)

Cash fare book, with 125 5-cent coupons for \$5.00. (These coupons to be honored only between points where fare is 10 cents and over.)

Applicant is also authorized to make adjustments at other points, as outlined in Exhibit No. 2, not in conflict with this opinion and order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of July, 1918.

## DECISION No. 5638.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO HOME TELEPHONE COMPANY, T. A. THOMPSON AND TITLE INSURANCE AND TRUST COMPANY FOR AUTHORITY TO SELL AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY TO PURCHASE PROPERTY AND FRANCHISES OF SAN DIEGO HOME TELEPHONE COMPANY.

## Application No. 3702.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR A CERTIFICATE GRANTING THE EXERCISE BY IT OF RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER FRANCHISE GRANTED UNDER ORDINANCE NO. 5681 OF THE CITY OF SAN DIEGO.

## Application No. 3780.

*Decided July 29, 1918.*

EDGERTON, *Commissioner.*

**SUPPLEMENTAL ORDER.**

*It is hereby ordered* by the Railroad Commission of the state of California that the sale to T. A. Thompson of the telephone property mentioned in Application No. 3702 under a decree made by the Superior Court of the state of California in and for the county of San Diego in an action in which Title Insurance and Trust Company is plaintiff and Home Telephone and Telegraph Company of San Diego, a corporation, San Diego Home Telephone Company, a corporation, and others are defendants, is hereby authorized; and the sale by said T. A. Thompson of any or all of said property to Title Insurance and Trust Company is hereby authorized.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-ninth day of July, 1918.

## DECISION No. 5639.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO SELL PROPERTY TO OXNARD HOME TELEPHONE COMPANY AND TO WITHDRAW FROM THE TELEPHONE BUSINESS, AND OF THE LATTER COMPANY TO ACQUIRE PROPERTY OF THE FORMER COMPANY AND TO ISSUE BONDS AND TO ISSUE ITS NOTE.

## Application No. 3826.

*Decided July 29, 1918.*

TELEPHONE CONSOLIDATION.—Consolidation of two competing telephone systems operating in and about Oxnard authorized.

*H. D. Pillsbury and James T. Shaw*, for The Pacific Telephone and Telegraph Company.

*Charles F. Blackstock*, for Oxnard Home Telephone Company.

GORDON, *Commissioner*.

#### OPINION.

This is an application seeking the authority of the Railroad Commission for the consolidation of two competing telephone systems now in operation in the city of Oxnard and vicinity. The Pacific Telephone and Telegraph Company and Oxnard Home Telephone Company are the companies now operating these competing systems.

The Pacific Telephone and Telegraph Company desires to sell to Oxnard Home Telephone Company its property consisting of plant and equipment (exclusive of certain items thereof), and Oxnard Home Telephone Company desires to purchase and acquire the same for the sum of \$23,159.79. Oxnard Home Telephone Company also desires authority to issue its bonds of the par value of \$9,000.00 now in its treasury in payment of \$8,100.00 of the purchase price, and to issue its two year 6 per cent promissory note in payment of the balance of \$15,059.79 of the purchase price. If authority to sell and transfer said property is granted, it is the plan of The Pacific Telephone and Telegraph Company to withdraw from the operation of the telephone system in said city and territory tributary thereto.

The rates at present in effect over the two competing systems are not the same for like service in all cases. In order to avoid discrimination in rates which would otherwise exist if consolidation were authorized, Oxnard Home Telephone Company asks that reasonable rates be authorized for the service and conditions thereafter pertaining.

A hearing was held in the city of Oxnard on July 12, no one appearing in opposition to the application for authority to consolidate. The conditions attendant upon the operation of competing telephone systems in this instance are so similar to those existing in other localities where consolidation has recently been authorized by this commission that it seems unnecessary to again review them here.

There is not sufficient evidence before the commission upon which a proper determination may be reached as to the value of the plant to be sold and transferred or to determine the total property value of Oxnard Home Telephone Company upon which proposed and existing issues of securities are dependent, or as to earnings reasonably to be expected after consolidation.

I accordingly recommend that an order be made authorizing the consolidation of these two telephone systems and leaving for a subsequent supplemental order the fixing of the terms and conditions upon which such consolidation shall be made.

**ORDER.**

Application therefor having been made by The Pacific Telephone and Telegraph Company and Oxnard Home Telephone Company, and a public hearing having been had,

*It is hereby ordered* by the Railroad Commission of the state of California that The Pacific Telephone and Telegraph Company be and it is hereby authorized to sell to Oxnard Home Telephone Company all that certain real and personal property located in the city of Oxnard and territory tributary thereto now being used by said The Pacific Telephone and Telegraph Company in the conduct of a telephone business, as more particularly described in Exhibit "A" and Exhibit No. 1 on file herein.

Oxnard Home Telephone Company is hereby authorized to purchase said above-described property and to consolidate said property with its telephone system now being operated in the city of Oxnard and territory tributary thereto;

Provided, however, that before said sale is consummated a supplemental order herein shall be made by this commission fixing all of the terms and conditions of such sale and fixing the amount of bonds and notes which may be issued by Oxnard Home Telephone Company, and the details and conditions of such issue.

*It is hereby further ordered* that The Pacific Telephone and Telegraph Company is hereby authorized to withdraw from the telephone business in the city of Oxnard and in the territory tributary thereto.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-ninth day of July, 1918.

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**DECISION No. 5640.**

**IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.**

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Application No. 3557.

*Decided July 30, 1918.*

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BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

San Joaquin Light and Power Corporation having filed with the Railroad Commission statements showing that it has expended for construction purposes to June 30, 1918, the sum of \$137,624.03 against

which no securities have been issued, and having asked the Railroad Commission for authority to use \$137,624.03 of the proceeds from the sale of the bonds authorized to be issued in Decision No. 5215, dated March 18, 1918, and Decision No. 5377, dated May 2, 1918, and it appearing to the Railroad Commission that of the expenditures referred to above, \$135,768.18, represents capital expenditures which may be properly paid from the proceeds from the sale of bonds; now, therefore,

*It is hereby ordered* that San Joaquin Light and Power Corporation be and it is hereby authorized to use \$135,768.18 of the proceeds obtained from the sale of bonds authorized to be issued pursuant to Decision No. 5215, dated March 18, 1918, and Decision No. 5377, dated May 2, 1918, for the purpose of financing its capital expenditures prior to June 30, 1918, other than those expenditures incurred against estimates numbers 2643, 193, 194, 195 and 605.

Dated at San Francisco, California, this thirtieth day of July, 1918.

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DECISION No. 5641.

IN THE MATTER OF THE APPLICATION OF NORTHERN CALIFORNIA POWER COMPANY, CONSOLIDATED, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO INCREASE ITS RATES AND CHARGES FOR ELECTRIC ENERGY IN CERTAIN COMPETITIVE TERRITORY.

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Application No. 3970.

*Decided July 30, 1918.*

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INCREASE IN ELECTRIC RATES.—Rates of Northern California Power Company, Consolidated, for electric energy sold in the Chico District increased under the conditions and circumstances now existing in that district to rates of competing utility.

BY THE COMMISSION.

**ORDER.**

Whereas Northern California Power Company, Consolidated, has applied for authority to increase its rates and charges for electric energy sold in and about Chico, Butte County, and in certain parts of Colusa and Glenn counties, in which territory applicant is in direct competition with Pacific Gas and Electric Company in the sale of electricity; and

Whereas this commission, in its Decision No. 5519 in Application No. 3459, being the application of Pacific Gas and Electric Company to increase rates, authorized Pacific Gas and Electric Company to charge and collect certain surcharges in addition to the rates and charges established in its regularly filed rate schedules, which surcharges and schedules now apply in said competitive territory; and



Whereas Pacific Gas and Electric Company's rates for electricity, as modified by Decision No. 5519, which have been found to be just and reasonable rates under existing conditions, are higher than the rates charged by applicant in said competitive territory; and

Whereas, if this rate differential be permitted to continue in said competitive territory, Pacific Gas and Electric Company will suffer by loss of consumers and revenue, and those portions of its electric system now used for the service of its consumers in the above-mentioned competitive territory will be rendered useless, and the Northern California Power Company, Consolidated, will therefore be required to assume the obligation of serving these consumers, which the Northern California Power Company, Consolidated, has neither the electric energy nor facilities for service; and

Whereas a similar modification of the rates of Northern California Power Company, Consolidated, in said competitive territory, to place them on a parity with the rates now charged therein by Pacific Gas and Electric Company, will not result in undue burdens to existing consumers of the Northern California Power Company, Consolidated; and

Whereas the rates hereinafter fixed to be charged by applicant in the territory mentioned are hereby found to be just and reasonable rates under all the circumstances and conditions existing at this time in this territory,

*It is hereby ordered* that Northern California Power Company, Consolidated, be and is hereby authorized to charge and collect for electric energy sold in that portion of Butte County known as the Chico District of Pacific Gas and Electric Company, and in those certain parts of Colusa and Glenn counties where Northern California Power Company, Consolidated, is in direct competition with Pacific Gas and Electric Company, in addition to its rates and charges now on file, the following surcharges for all meter readings taken on and after August 10, 1918, to wit:

For energy sold for lighting service except municipal street lighting, 1 cent per kilowatt hour.

For energy sold for power service, including heating and cooking, except for energy sold to electric railways and other electric corporations, 2 mills per kilowatt hour.

For energy sold for street lighting, 10 per cent of monthly bills.

Provided Northern California Power Company, Consolidated, shall within ten days of the date of this order file with the Railroad Commission of the state of California a statement showing the rates and territory to which each of the surcharges hereinbefore authorized shall apply, which statement shall constitute an amendment to existing rate schedules on file, and that Northern California Power Company, Con-

solidated, shall designate separately on the bills rendered its consumers of electric energy in said competitive territory the amount due it under the authorized surcharges.

Dated at San Francisco, California, this thirtieth day of July, 1918.

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DECISION No. 5642.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA  
AND SANTA FE RAILWAY COMPANY TO ABANDON CERTAIN PAS-  
SENGER SERVICE BETWEEN RICHMOND AND OAKLAND.

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Application No. 3985.

*Decided July 30, 1918.*

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BY THE COMMISSION.

**ORDER.**

The Atchison, Topeka and Santa Fe Railway Company, a corporation, has applied to the Railroad Commission for an order authorizing the discontinuance of its ferry service between Ferry Point and San Francisco and for the rerouting of its passenger trains between Richmond and Oakland via the tracks of the Southern Pacific Company, said rerouting of trains and abandonment of ferry service having been requested by the Director General of Railroads in the interest of economy and efficiency.

The proposed rerouting of passenger trains via the tracks of the Southern Pacific Company between Oakland and Richmond will be of advantage to the public in that more expeditious service will be available, and the expense of operating the present passenger ferry system between Ferry Point and San Francisco will be eliminated.

The commission being fully advised and of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted.

*It is hereby ordered* that this application be and the same hereby is granted.

Dated at San Francisco, California, this thirtieth day of July, 1918.

## Decision No. 5646.

IN THE MATTER OF THE APPLICATION OF HILBORN BROTHERS, MRS. LENA DINKELSPIEL, A. W. McDONALD, DADAMI ESTATE, M. CHRISTENSEN, SULLIVAN AND LARSEN AND JOHN JOSEPH & COMPANY FOR AUTHORITY TO INCREASE WAREHOUSE RATES.

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Application No. 3912.

*Decided August 2, 1918.*

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*Edward Dinkelspiel*, for Mrs. Lena Dinkelspiel.

*A. W. McDonald*, *in propria persona*.

*Pauline A. Whitman*, for Dadami Estate.

*L. P. Larsen*, for Sullivan and Larsen.

*Joe R. Serpa*, for John Joseph & Company.

BY THE COMMISSION.

**OPINION.**

Applicants in this proceeding seek authority to increase rates for the storage of grain in their respective warehouses located at points in Solano County, as follows:

Hilborn Brothers at Suisun.  
Mrs. Lena Dinkelspiel near Birds Landing.  
A. W. McDonald at Miens Landing.  
Dadami Estate near Collinsville.  
M. Christensen at Rio Vista.  
Sullivan and Larsen at Rio Vista.  
John Joseph & Company at Rio Vista.

A public hearing upon the application was held by Examiner Westover at Rio Vista on July 22, 1918. No appearance was entered for Hilborn Brothers nor for M. Christensen, and no testimony was presented on behalf of either of these applicants. Subsequent to the hearing, the application, in so far as it relates to Sullivan and Larsen, was withdrawn. The application will, therefore, be dismissed as to the three utilities named, and will be considered only with reference to the remaining four.

Each of the warehouses under consideration is located on navigable water upon which applicants rely for transportation. Loading from warehouse to vessel is done almost entirely by boat crews, and is not included in the charge for storage.

The reported capacity of each warehouse, the average tonnage handled annually, value of the property, net revenue per annum and the present rates at the several warehouses are shown in the table below, the average tonnage and revenue being based on operations during the

last four seasons, except in the case of the Dadami Estate, in which the only figures available are those for 1917:

Names	Approximate number of birds received in season	Approximate number of birds shipped in season	Value of property	Average annual net revenue	Present rates
Lena Dinkelspiel (Birds Landing warehouse) -----	3,500	1,904	\$10,000	\$491 00	{30 days, 50¢ ton * { Feb. 1, 75¢ ton Season, \$1 ton
A. W. McDonald (Miens Land- ing warehouse) -----	2,000	2,245	No rpt.	\$407 53	{30 days, 50¢ ton * { Feb. 1, 75¢ ton Season, \$1 ton
Dadami Estate (Collinsville warehouse) -----	1,200	979	3,000	287 75	{Oct. 1, 50¢ ton Season, 76¢ ton
John Joseph & Co. (Joe R. Serpa warehouse, Rio Vista) -----	2,200	931	2,000	\$260 76	{30 days, 50¢ ton Season, 75¢ ton

\*Includes resacking and loading out.  
†Includes storage of hay.

Applicant, A. W. McDonald, leases the warehouse operated by him, including approximately 13 acres of land having an annual cash rental value of about \$2.50 per acre, and ranch house with a rental value of about \$20 per month, for all of which he pays to the owner one-half the gross receipts from the warehouse. Each of the other warehouses is owned or controlled by the respective applicants.

The application is set forth in language more or less indefinite as to the rates desired, but indicates that a flat rate of \$1.00 per ton for storage to January 1 following deposit, and \$1.50 per ton per season would be satisfactory to applicants. However, this proposition was abandoned in view of opposition of patrons which developed at and before the hearing. Some of the patrons opposed a flat rate of \$1.00 per season. None of them expressed opposition to a rate of 75 cents for one month and \$1.00 for the season, and all of the applicants represented at the hearing expressed satisfaction with such a rate except one who favored a flat rate of \$1.00 per ton per season.

The results of operation shown in the foregoing table are based on present rates, which have been in effect a number of years, during which time operating costs have been relatively light. It appears from the testimony that labor, the principal item of operating expense, has increased in recent months approximately 60 per cent and is somewhat less efficient than formerly. However, most of the warehouses in question are operated by small crews and in connection with other activities in the locality, so that the labor problem is not so difficult as is that in connection with other warehouses not so operated.

The general opinion of warehousemen and patrons was to the effect that owing to poor crop conditions this year and the tendency to ship grain early rather than store it, the amount stored will be comparatively small.

It is believed that the rates set forth in the order will prove to be just and reasonable under all of the surrounding circumstances.

#### ORDER.

The above-named applicants having applied to this commission for authority to increase rates for the storage of grain, a public hearing having been held upon said application, testimony having been submitted, and the matter being now ready for decision, it is hereby found as a fact that the rates now in effect, in so far as they differ from the rates set forth in the order, are unjust and unreasonable, and that the rates herein established are just and reasonable rates.

*It is hereby ordered that:*

Mrs. Lena Dinkelspiel, operating Birds Landing Warehouse, near Birds Landing on Montezuma Slough;

A. W. McDonald, operating Miens Landing Warehouse at Miens Landing on Montezuma Slough;

Dadami Estate, operating Dadami Warehouse near Collinsville on Sacramento River; and

John Joseph & Company (Joe R. Serpa, successor), operating a warehouse at Rio Vista on Sacramento River,

be and they are hereby authorized to publish and file with this commission within twenty (20) days from date hereof and thereafter collect rates for the storage and handling of grain in their said respective warehouses in accordance with the following schedule:

Storage for one month or less, 75 cents per ton.

Storage per season (June 1 to May 31), \$1.00 per ton.

*It is hereby further ordered* that all necessary expense incurred by applicants in resacking or overhauling commodities for the benefit of the owner shall be charged to the latter at the actual cost of labor and materials used.

*It is hereby further ordered* that the above application in so far as it relates to increase of rates at the warehouses of Hilborn Brothers, M. Christensen and Sullivan and Larsen, is hereby dismissed without prejudice.

Dated at San Francisco, California, this second day of August, 1918.

## DECISION No. 5648.

IN THE MATTER OF THE APPLICATION OF MODESTO AND EMPIRE TRACTION COMPANY, A CORPORATION, FOR PERMISSION TO DISCONTINUE ITS PASSENGER SERVICE.

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Application No. 3933.

*Decided August 3, 1918.*

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RAILROADS ABANDONMENT OF SERVICE.—The reduction in main line railroad service and competition with automobile stages resulting in loss of passenger traffic to applicant's branch line held to warrant discontinuance of applicant's service.

*L. L. Donnell*, for Applicant.

*GORDON*, Commissioner.

## OPINION.

Modesto and Empire Traction Company, a corporation, has applied to the Railroad Commission for an order authorizing the discontinuance of passenger service on its line, it being alleged that the passenger service is being conducted at a material loss and that the public convenience and necessity do not require the continuance of such service.

A public hearing was held at Modesto on July 27, 1918, the matter was duly submitted and is now ready for decision.

The Modesto and Empire Traction Company operates a standard gauge railroad between the city of Modesto and Empire, all in Stanislaus County, a distance of 5.2 miles. The line has served as a connection between The Atchison, Topeka and Santa Fe Railway at the station of Empire and the city of Modesto, and a passenger service of six round trips per day has been operated connecting with main line trains of The Atchison, Topeka and Santa Fe Railway Company. The reduction in passenger train service on the line of the Santa Fe and the discontinuance of Santa Fe trains Nos. 31 and 32 have reduced the passenger traffic heretofore cared for and with the competition by automobile stages on the highway paralleling the line of the applicant has resulted in the passenger business being operated at a material loss.

The records of the applicant show that the gross revenue received during the calendar year 1917 from passenger operation amounted to \$3,595.89, the operating expense amounted to \$6,001.61 or a net loss of \$2,405.72. During the six months ending June 30, 1918, the gross receipts from passenger operation amounted to \$1,431.12, the operating expense amounted to \$3,237.23, resulting in a net loss of \$1,806.11. It is apparent that the operation of this line as a passenger carrier can not be conducted at a profit, and there appears no reason why the petition of applicant should not be granted. No appearance in protest against

the granting of the application was made at the hearing on this proceeding, although public notice had been given by advertising in newspapers and by notices posted at the stations and in the passenger cars of applicant.

I am of the opinion and find as a fact that the operation of passenger service by the applicant herein is not justified or required by the public.

Herewith the following suggested order:

**ORDER.**

A public hearing having been held on the above-entitled proceeding, the matter having been duly submitted and the commission being fully advised and basing its order on the finding of fact as contained in the foregoing opinion,

*It is hereby ordered* that the Modesto and Empire Traction Company be and it hereby is authorized to discontinue its passenger service after five days' notice will have been given the traveling public by posting notices of the effective date of such discontinuance in all passenger cars and stations on its line.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this third day of August, 1918.

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**DECISION No. 5649.**

**COLORADO RIVER TELEPHONE COMPANY, A CORPORATION,**

**vs.**

**CALIFORNIA SOUTHERN RAILROAD COMPANY, A CORPORATION, AND  
WESTERN UNION TELEGRAPH COMPANY, A CORPORATION.**

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**Case No. 1005.**

*Decided August 3, 1918.*

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**BY THE COMMISSION.**

**OPINION ON PETITION FOR REHEARING.**

The petition of California Southern Railroad Company for rehearing questions Decision No. 4606, made on August 30, 1917, in so far only as the decision refers to the transmission of telegraphic messages by telephone.

Petitioner urges that a contract which it proposed to enter into with Western Union Telegraph Company for conducting a telegraph business was authorized and approved by the Railroad Commission, that it would be unwarranted and unjust for the Railroad Commission to now withdraw its consent and approval, that the decision of the commission

to the effect that petitioner is doing a telephone business and rendering a telephone service to a part of the public is unsupported by the evidence and contrary to law, and that the order to discontinue the use of petitioner's line for the transmission of telegraphic messages by telephone is unlawful and erroneous. Reference is hereby made to said Decision No. 4606 and the reasons therein contained are reaffirmed as the commission's basis for ordering defendant to discontinue the use of its line for the transmission of telegraphic messages by telephone.

We are of the opinion that no good reason appears for granting a rehearing and that the petition for rehearing should be denied.

**ORDER.**

California Southern Railroad Company, a defendant in the above-entitled proceeding, having filed herein a petition for rehearing, and careful consideration having been given to the same, and no good reason appearing why a rehearing should be held,

*It is hereby ordered* that said petition for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this third day of August, 1918.

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DECISION No. 5652.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE AND PLEDGE BONDS SECURING AN ISSUE OF NOTES AND TO ISSUE, SELL AND DISPOSE OF SUCH NOTES.

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Application No. 3831.

*Decided August 3, 1918.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

The Railroad Commission having by Decision No. 5502, dated June 19, 1918, as amended, authorized San Diego Consolidated Gas and Electric Company to issue at not less than 95 per cent of their face value plus accrued interest, \$652,800.00 of five-year 6 per cent collateral trust gold notes payable July 1, 1923, and secure the payment of said notes by depositing with the trustee \$816,000.00 of its first mortgage 5 per cent thirty-year gold bonds payable March 1, 1939, provided that the proceeds from the sale of \$216,000.00 of said notes be deposited in a special fund and expended only for such purposes as the Railroad Commission may hereafter authorize in a supplemental order or orders, and San Diego Consolidated Gas and Electric Company having filed



in the above-entitled matter a supplemental petition wherein it reports that since April 30, 1918, and up to and including June 30, 1918, it has expended for construction purposes the sum of \$93,990.90 and that because of these expenditures it is entitled to issue under the terms of its deed of trust \$70,000.00 of its first mortgage bonds which will enable it to issue \$56,000.00 of its five-year collateral trust notes, and San Diego Consolidated Gas and Electric Company having asked to use the proceeds from the sale of the \$56,000.00 of notes to pay indebtedness set forth in Schedule No. 3 attached to the supplemental petition herein and the Engineering Department of the Railroad Commission finding that applicant's construction expenditures are reasonable; now, therefore,

*It is hereby ordered* that San Diego Consolidated Gas and Electric Company be and it is hereby granted authority to use the proceeds from the sale of \$56,000.00 of its five-year collateral trust 6 per cent gold notes, the issue of which was authorized by Decision No. 5502, dated June 19, 1918, to finance in part its construction expenditures since April 30, 1918, and up to and including June 30, 1918, and through such financing pay in part the indebtedness set forth in Schedule No. 3 attached to the supplemental petition herein.

*It is hereby further ordered* that the order in Decision No. 5502, dated June 19, 1918, as amended, shall remain in full force and effect except as modified by the second supplemental order.

Dated at San Francisco, California, this third day of August, 1918.

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#### DECISION No. 5653.

IN THE MATTER OF THE APPLICATION OF PETALUMA AND SANTA ROSA RAILWAY COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN FREIGHT RATES.

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Application No. 3889.

*Decided August 6, 1918.*

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ELECTRIC RAILWAY INCREASE FREIGHT RATES.—Electric railway permitted to increase freight rates to basis of federal-controlled line in competition where it appears that applicant needs increased revenue and that leveling of rates with competing line will prevent confusion and congestion of traffic.

*Allan P. Matthew*, for Applicant.

*Sapiro, Noylan & Ehrlich*, by *John F. Noylan*, for Northern California Poultry Producers.

LOVELAND, *Commissioner*.

#### ORDER.

The Petaluma and Santa Rosa Railway Company, an electric line, applied to this commission June 25, 1918, under section 63 of the Public

Utilities Act, for authority to increase its freight rates to a basis of the rates established on federal-controlled steam railroads under General Order No. 28, issued by W. G. McAdoo, Director General of Railroads, May 25, 1918, effective June 25, 1918.

The commission has, by informal action, authorized many electric lines, steam railroads and boat lines not under federal control but in direct competition, to increase freight and passenger rates in conformity with this General Order No. 28. These changes were authorized without public hearings as emergency measures to maintain parity of rates between federal-controlled and nonfederal-controlled transportation companies in competitive territory when no opposition had developed, and it appeared to the satisfaction of the commission that increases in revenue were necessary to properly maintain the services of the different applicants.

In this proceeding the Northern California Poultry Producers' Association, through its attorneys, Sapiro, Neylan & Ehrlich, objected to the increases and, accordingly, the application was set for a formal hearing July 8, 1918. At this hearing Attorney John F. Neylan stated his firm represented not only the Poultry Producers' Association, but other shippers, and that they were then in correspondence with Director General of Railroads McAdoo praying for a modification of General Order No. 28 in so far as it applied to the Northwestern Pacific Railroad, which is under federal control and in direct competition with this applicant. He therefore urged a postponement of this case pending outcome of a conference to be held at Washington, D. C., and agreed to notify this commission of the results obtained. If modification of the Northwestern Pacific rates were not possible all objections to the freight increases to this applicant would be withdrawn. Under date July 31, 1918, protestants notified this commission, in writing, of their withdrawal of all objections to the application.

The Petaluma and Santa Rosa Railway has shown in its application, by exhibits and by annual reports, that it is in need of increased revenue, in addition to which the commission believes it should cooperate with the federal authorities at this time, for it would be illogical, where carriers are in direct competition with regular scheduled routes, to maintain difference in rates, as manifestly traffic would gravitate to the low-rated line, which would result in endless confusion and, in many instances, the line securing the tonnage would be without facilities for its proper transportation.

It appearing to the commission that this application should be granted and that a hearing is not necessary,

*It is hereby ordered* that this application be and the same is hereby granted.

Dated at San Francisco, California, this sixth day of August, 1918.

## DECISION No. 5660.

## IN THE MATTER OF THE APPLICATION OF UNION TRACTION COMPANY TO INCREASE RATES IN SANTA CRUZ AND VICINITY.

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Application No. 3805.*Decided August 10, 1918.*

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**ELECTRIC RAILWAY—INCREASE PASSENGER RATES.**—Electric railway in need of increased revenue due to increased operating expense and where every economy in management is being made is permitted to increase street car fares from 5 cents to 6 cents, although franchise provides for 5-cent fare, and also to make other minor tariff changes.

*S. Waldo Coleman*, for Applicant.

*W. R. Springer*, city attorney, for city of Santa Cruz.

*LOVELAND*, Commissioner.

**OPINION.**

This is an application of the Union Traction Company for permission to increase street car zone fares within the city limits of Santa Cruz and to Twin Lakes, and between Twin Lakes and Capitola from 5 to 6 cents; to sell books containing ten tickets for use between Santa Cruz and Capitola for \$1.00; to issue school children a 50-ride ticket for \$1.50, and to alter its express freight tariff to the extent of limiting weight of any single package to not over 25 pounds. It also seeks authority to cancel 60-ride family commutation and 15-ride individual commutation tickets now sold for use between Santa Cruz and Capitola, and to make other minor changes in the rules governing passenger transportation.

The company operates 14.96 miles of track, located in the city of Santa Cruz and between Santa Cruz and Capitola, in Santa Cruz County. This track consists of 11.52 miles of first track, 2.28 of second track and 1.16 of yard tracks and sidings. Included in the mileage are eight bridges of concrete and wooden construction crossing the San Lorenzo River, the different creeks and sloughs, which are very expensive to maintain because of washouts, due to high water.

Applicant has outstanding first mortgage bonds, interest 5 per cent, amounting to \$631,000.00; it has never paid a dividend to stockholders nor has it paid interest on its bonds since August 1, 1915. The balance sheet of December 31, 1917, shows accrued interest unpaid amounting to \$76,245.86 and accounts payable amounting to \$12,859.27.

The following financial statement, taken from annual reports on file with this commission, shows results of operations for twelve month periods June 30, 1915, to December 31, 1917:

	June 30, 1915	June 30, 1916	Dec. 31, 1916	Dec. 31, 1917
<b>Earnings--</b>				
Passenger .....	\$68,479 65	\$58,995 79	\$63,109 25	\$59,750 10
Other from transportation.....	82 55	113 10	95 00	71 35
Other than from transportation..	815 13	863 17	813 70	989 26
<b>Total operating revenues.....</b>	<b>\$69,377 33</b>	<b>\$59,972 06</b>	<b>\$64,017 95</b>	<b>\$60,810 71</b>
<b>Expenses--</b>				
Way and structures.....	\$3,274 40	\$4,853 22	\$4,884 20	\$3,884 44
Equipment .....	5,256 08	7,136 74	7,453 69	4,783 11
Power .....	8,592 10	11,243 80	11,443 60	11,405 20
Conducting transportation .....	23,401 42	20,061 71	20,075 67	19,987 98
Traffic .....	373 97	576 39	613 57	437 36
General and miscellaneous.....	3,940 11	3,646 00	4,108 41	3,856 14
Credit transportation for invest- ment .....				
	\$14,838 38	\$17,517 86	\$18,579 14	\$44,354 23
<b>Operating ratio .....</b>	<b>64.63%</b>	<b>79.23%</b>	<b>75.88%</b>	<b>72.93%</b>
<b>Net operating revenues.....</b>	<b>\$24,538 95</b>	<b>\$12,454 20</b>	<b>\$15,438 81</b>	<b>\$16,456 48</b>
Taxes .....	4,108 29	4,071 77	3,766 98	3,543 70
Operating income .....	20,430 66	8,382 43	11,671 83	12,912 78
Nonoperating income .....				214 49
Gross income .....	20,430 66	8,382 43	11,671 83	13,127 27
Reductions from gross income.....	31,546 66	31,550 00	31,550 00	31,550 00
<b>Income, profit or loss*.....</b>	<b>\$11,116 00</b>	<b>\$23,167 57</b>	<b>\$19,878 17</b>	<b>\$18,422 73</b>

\*Loss.

It will be noted passenger earnings declined from \$68,479.65 for twelve months ending June 30, 1915, to \$59,750.10 for the twelve months ending December 31, 1917, while operating expenses remained practically constant. The income balance (deficit) was \$11,116.00 in 1915; \$23,167.57 in 1916, and \$18,422.73 in 1917. According to the testimony of a witness for applicant, the largest operating revenue ever earned was \$96,090.00 in the fiscal year ending June 30, 1908, which fell to \$60,810.71 in the calendar year ending December 31, 1917, or a decrease of approximately \$36,000.00 in the ten-year period. This loss in revenue has been gradual and is mainly attributable to the use of privately-owned automobiles.

The company introduced an exhibit comparing earnings and expenses for the first six months of 1918 with the same period of 1917. The gross earnings were \$22,407.79 in 1918 as against \$23,591.10 in 1917, operating expenses \$21,559.13 in 1918 and \$21,009.39 in 1917, while net revenue from railway operations was \$848.66 in 1918 as against \$2,581.71 for 1917. After deducting taxes there was a deficit of \$460.33 in 1918 as against a net operating profit of \$774.97 in 1917. Including the bond interest for this six months' period there was an income deficit of \$16,115.07 in 1918 against \$14,701.41 in 1917, or an increased loss

of \$1,413.16 in 1918 compared with 1917. However, this ratio will not be maintained, for the reason that the company's heaviest traffic is during the months of July, August and September, due to tourist travel between the city and beach resorts, but it is safe to assume that the total deficit for the calendar year 1918 will be much in excess of the deficit of \$18,422.73 for the year 1917. For the first six months of 1917 the company carried 463,346 paying passengers, while only 439,418 were handled during the first six months of 1918, a loss of 23,928 passengers.

Wages of trainmen have increased; total paid this class of labor was \$17,514.18 for the twelve months ending May 31, 1918, and is estimated at \$20,482.92 for the twelve months ending May 31, 1919, or an increase of practically \$3,000.00. In addition to the advance in wages of trainmen, the cost of power will be increased by \$1,500.00 and the wages of shop men by \$900.00; materials have also increased, but the general manager of the company testified that there is an ample stock of ties and other materials on hand and that therefore these items will reflect but little extra cost to the company during the next twelve months. The company has but four shop men and the upkeep of its electric lines is taken care of under contract with the Coast Counties Gas and Electric Company, resulting in a substantial saving over what would be required if special crews of section men and electricians were employed. One-man cars are operated on the Laveaga Park and Capitola divisions and the company appears to be carefully and efficiently managed throughout.

The city attorney of Santa Cruz called attention to the fact that the franchises under which the Union Traction Company secured its right to operate over public streets carried contract clauses for a charge of not more than 5 cents per ride, and questioned the Railroad Commission's authority to permit any rate in excess of 5 cents. This point has been raised in a number of proceedings, and the commission's right to alter such contracts has been consistently maintained. (Decision No. 2816—*Town of Sausalito vs. Marin Water and Power Company*, Vol. 8. *Opinions and Orders of the Railroad Commission of California*, p. 252.)

Specific authority is contained in section 27 of the Public Utilities Act:

"No street or interurban railroad corporation shall charge, demand, collect or receive more than five cents for one continuous ride in the same general direction within the corporate limits of any city and county, or city or town, except upon a showing before the commission that such greater charge is justified; provided, that until the decision of the commission upon such showing, a street or interurban railroad corporation may continue to demand, collect and receive the fare lawfully in effect on November 3, 1914."

Decreases in operating revenues and increases in operating expenses, as shown in the preceding statement, have brought this company to a

crisis in its affairs and it is conclusively proven that it can not continue to give satisfactory service at the rates now in effect, which during the first six months of the current year failed to provide even operating expenses and taxes, to say nothing of bond interest.

Apparently every reasonable economy has been introduced by the management, including the one-man car operation, and there is no other form of relief in this situation than through increases in fares. I am of the opinion the residents in the communities would prefer paying a slight increase in fares rather than suffer a reduction or a discontinuance of the service. I therefore conclude, after giving careful consideration to all evidence submitted, that the present rates of applicant are unremunerative.

I recommend that the Union Traction Company be authorized to increase its one-way fares within the city limits of Santa Cruz, and to and including Twin Lakes, from 5 to 6 cents; increase the one-way fare between Twin Lakes-Capitola and intermediate points from 5 to 6 cents; to sell books of tickets containing ten rides at \$1.00 for use between Santa Cruz-Capitola and intermediate points; also that it be permitted to change its rule governing the transportation of express packages to provide that no single package weighing over twenty-five pounds will be handled on its cars, and make other adjustments as set forth in the application. Under the provisions of section 17 of the Public Utilities Act, common carriers have authority to issue reduced rate transportation to their own employees and members of their families and to children attending institutions of learning; therefore, no authority is necessary from this commission to adjust these special rates.

I submit the following form of order:

**ORDER.**

The Union Traction Company having applied under section 63 of the Public Utilities Act for permission to increase its passenger fares and express rates, as set forth in the opinion which precedes this order, and a public hearing having been held and the Railroad Commission being fully apprised in the premises, it is hereby found as a fact that the existing rates are unjust, unreasonable and insufficient and that the rates herein established are found to be just and reasonable.

Basing this order on the findings of fact which precede,

*It is hereby ordered* that the Union Traction Company be and the same is hereby authorized to establish within twenty (20) days from the date of this order a fare of 6 cents within the city of Santa Cruz and to Twin Lakes, and a fare of 6 cents between Twin Lakes and Capitola, a 10-ride commutation ticket for \$1.00 between Santa Cruz and Capitola, change its express tariff rule limiting weight of a single

package to 25 pounds and make such cancellations and changes as are set forth in the application not inconsistent with this opinion and order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this tenth day of August, 1918.

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DECISION No. 5661.

IN THE MATTER OF THE APPLICATION OF LANCASTER FEED AND FUEL COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF 62 SHARES OF COMMON STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS PER SHARE.

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Application No. 3721.

*Decided August 10, 1918.*

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*Laurence L. Larrabee*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Lancaster Feed and Fuel Company applies for authority to issue 62 shares of its common stock at the par value of \$100.00 each and for an order authorizing certain changes in its rates for warehousing grain, almonds, honey, honey cases, apples and pears. The application concerning rates has been disposed of by informal proceeding.

A public hearing upon the application to issue stock was held by Examiner Westover at Los Angeles on June 19, 1918.

Applicant's business, which is located at Lancaster, Los Angeles County, consists principally in buying and selling grain, coal, wood and millstuffs, its warehouse business both as to investment and earnings constituting a comparatively small part of its business. Of its assets as of April 1, 1918, totaling \$27,341.55 depreciated, \$4,070.97 represents its frame warehouse building and equipment, and the remainder its nonpublic utility business. Its gross revenue from its warehouse business for 1917 was shown by its annual report to be \$1,367.51 and its warehouse expenses \$1,254.99, showing a net revenue of \$112.52 from warehouse business.

Applicant wishes to issue 32 shares of its stock at par to its present stockholders in proportion to their present holdings in lieu of a distribution of surplus, which is shown by its annual report for 1917 to be \$3,532.26 and in its balance sheet of June 1, 1918, as \$3,542.49. Its annual reports show that but \$1,806.67 of this surplus has been earned since applicant was organized in March, 1915, and bought the business in question.

The other 30 shares it wishes to issue at par for cash to purchasers already secured and use the proceeds, so far as necessary, for installing improvements of the estimated cost of \$3,000.00, to be used in connection with its grain and feed business and not used in connection with its warehouse activities, and use the balance thereof, if any remains, for working capital.

The proposed improvements and their estimated costs are as follows:

Barley rolling plant.....	\$1,500 00
Iron clad building to house plant.....	700 00
Additional hay loading platform.....	500 00
Additional equipment for storing hay in its feed business.....	300 00
Total .....	\$3,000 00

The reason assigned for wishing to retain \$3,200.00 as working capital by the issue of stock against it in lieu of dividends, is that the growth of applicant's grain and feed business, the increasing cost of the goods in which it deals and the amounts necessarily carried on open accounts considered good, make it desirable to have increased working capital. The plan in contemplation of applicant, however, does not in fact bring into the business any new capital, but merely retains that accumulated as surplus. This surplus can be retained in the business just as effectively without issuing stock against it, but by merely refraining from distributing it in dividends.

For the reasons expressed, we do not at this time authorize the issue of the 32 shares. Authority to issue 30 shares will be found in the order.

In view of the fact that only a portion of applicant's business is subject to the regulation and control of the commission we suggest that it may prove desirable to applicant to conduct its public utility business entirely separate from its other business.

#### ORDER.

Lancaster Feed and Fuel Company having applied to the Railroad Commission for authority to issue 62 shares of its capital stock at the par value of \$100.00 per share, a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by the issue of 30 shares (\$3,000.00) is reasonably required for the purpose or purposes specified in the order, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

*It is hereby ordered* that Lancaster Feed and Fuel Company be and it is hereby granted authority to issue and sell for cash at not less than par \$3,000.00 of its common capital stock upon the following conditions:



(1) The proceeds obtained from the sale of the stock herein authorized shall be used by applicant for the following purposes:

To acquire barley rolling plant.....	\$1,500 00
To construct iron clad building to house plant.....	700 00
To construct additional hay-loading platform.....	500 00
Additional equipment for storing hay in its feed business.....	300 00
Total .....	\$3,000 00

(2) On or before the twenty-fifth day of each month applicant shall file with the Railroad Commission such statements as are required by the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted shall apply only to such stock as may be issued on or before November 30, 1918.

Dated at San Francisco, California, this tenth day of August, 1918.

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DECISION No. 5662.

IN THE MATTER OF THE APPLICATION OF UNION HOME TELEPHONE AND TELEGRAPH CORPORATION FOR AUTHORIZATION TO SELL PROPERTY AND FRANCHISES TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORIZATION TO SELL PROPERTY AND FRANCHISES TO UNION HOME TELEPHONE AND TELEGRAPH CORPORATION.

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Application No. 2920.

*Decided August 10, 1918.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Good cause appearing.

*It is hereby ordered* that the provision of the order in Decision No. 5314, dated April 16, 1918, reading:

"Union Home Telephone and Telegraph Corporation is further authorized to issue not to exceed \$30,000.00 face value of 6 per cent serial notes, the principal of which is to be paid \$5,000.00 annually. Said notes shall be sold to The Pacific Telephone and Telegraph Company at full face value and the proceeds thereof shall be used by Union Home Telephone and Telegraph Corporation to consolidate the telephone properties herein authorized to be purchased by it."

be and the same is hereby amended so as to read:

"Union Home Telephone and Telegraph Corporation is further authorized to issue not to exceed \$50,000.00 face value of 6 per cent serial notes, payable at the rate of \$5,000.00 per annum. Said

notes shall be sold to The Pacific Telephone and Telegraph Company at full face value and the proceeds used by Union Home Telephone and Telegraph Corporation to acquire outstanding bonds of Santa Ana Home Telephone and Telegraph Company not exceeding \$12,000.00 par value and accrued interest and for the purpose of effecting the consolidation of the properties retained by Union Home Telephone and Telegraph Corporation with those purchased from The Pacific Telephone and Telegraph Company.''

Dated at San Francisco, California, this tenth day of August, 1918.

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DECISION No. 5663.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO VALLEY WAREHOUSE COMPANY FOR PERMISSION TO INCREASE RATES OR TO ALTER RULES OR REGULATIONS SO AS TO EFFECT INCREASES IN RATES.

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Application No. 3875.

*Decided August 10, 1918.*

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*H. E. Woolner*, for Applicant.

*Lilienthal, McKinstry & Raymond*, by *C. L. Firchaugh*, for Alameda Sugar Company and Newhall Land and Farm Company, Protestants.

*G. J. Bradley*, for Merchants and Manufacturers Traffic Association of Sacramento, and Ennis-Brown Company, Protestants.

BY THE COMMISSION.

OPINION.

H. E. Woolner, doing business under the name and style of Sacramento Valley Warehouse Company, requests authority to greatly increase storage and handling charges applicable at his 5,000-ton rented warehouse, located at Tarke Station, Sutter County; also to establish charges for service not heretofore rendered and not included in the rates now in effect.

A public hearing on the application was held by Examiner Westover at Sacramento, at which oral and documentary evidence was submitted. Exhibit showing operating expenses has subsequently been filed and the matter is now ready for decision.

Reference is made to Decision No. 4617 of September 5, 1917, upon Application No. 3069, increasing applicant's rates, in which a history and description of the business is given at considerable length. (See Vol. 14, Opinions and Orders of the Railroad Commission of California, p. 5.) Said application to increase rates was made too late in the season to affect seriously earnings for the storage season ending May 31, 1918.

The rates prevailing at the beginning of last season were 65 cents per ton per season for storage, with 15 cents per ton for loading, 15 cents for reweighing, and 25 cents per ton for loading through the warehouse from team to car. Protestants showed that under the former management, before applicant leased the warehouse, the property had earned since it was built about 10 per cent per year on the investment, besides about \$1,300.00 distributed to the owners from earnings at the time the property was leased to applicant for a term of five years beginning June 1, 1917.

The testimony of applicant, however, at the recent hearing, as well as at the hearing last year, showed that previously the warehouse had been operated with such a small force and with such inadequate facilities that during much of the storage season loaded teams were obliged to wait for hours and many times all day for an opportunity to unload, resulting in heavy losses to individual patrons. The present management has spent about \$2,000.00 in improving facilities for unloading teams, including building new road approaches, moving and overhauling wagon scale, installing electric lights and improvements to doors, floors and underpinning. These improvements, with the keeping of an adequate force of labor on hand, have resulted in improved service and have naturally increased tonnage, as designed. Capacity storage is expected for the season of 1918 and 1919.

Applicant now requests a grain storage rate of \$1.25 for one month, \$1.50 for two months, and \$1.75 for the season June 1 to May 31; a season rate on beans of \$1.75, with a rate for loading onto cars of 25 cents for 25 tons or less per car, and 35 cents per ton where more than 25 tons is loaded into one car; a rate of 75 cents and 85 cents per ton for loading through the warehouse into cars, depending upon capacity of cars as herein explained; besides rates for other services which need not be described in detail here.

Request for the establishment of a regulation giving the warehouseman the option to name a ton basis of 40 cubic feet or 2,000 pounds, "whichever produces the greater revenue," was voluntarily withdrawn at the hearing. All other proposed rules and regulations, set forth in the application, may be filed with the commission in connection with the rates authorized herein.

Protestants do not object to reasonable increases in rates, but do object to the rates proposed on the ground that they are unreasonably high, even though greatly improved service is now given.

At the hearing of the present application petitioner presented a statement showing a loss of \$5,051.69 incurred in operating the warehouse last season, as the principal justification for the increase in rates sought herein. The statement shows a total operating cost of \$11,825.82, including "office and supervision" \$3,305.27, boarding house expense

\$2,525.05, and labor \$3,771.08, with gross revenue of \$6,774.13. Protestants question the \$2,525.05 for boarding expense, and especially \$3,305.27 for "office and supervision," \$600.00 of which represents cost of keeping a duplicate set of books in San Francisco and \$408.24 shortage of barley.

The detail of the remaining items of "office and supervision" shown in an exhibit filed by stipulation after the hearing, shows that it includes repairs to building and machines, parts, meals, railroad fares, salaries of bookkeeper, of weigher and checker, and of foreman after January 1, printing, power, twine, office supplies, and a wide range of miscellaneous items. Regardless of the classification of these items in accounting, the fact remains that applicant shows an operating cost of \$11,825.82, most of which is properly chargeable to operation. The testimony shows that during last season 4,487 tons of grain and 2,733 tons of beans were stored in this 5,000-ton warehouse. The apparent operating cost was \$9,072.05 for all operations, not including depreciation on auto, office building, furniture and fixtures, and not including salary or allowance for applicant or a manager, but including a rental of \$761.50 based on 8 per cent net on the cost of the building. This is at the rate of about \$1.274 per ton of grain stored. Analysis of revenue and expense showing results of storage and other handling separately are not shown. The items of general expense seem to us out of proportion to the labor charge, based upon our knowledge of operating costs derived from other cases.

Protestants also questioned the extra cost per ton for loading cars to capacity. It was shown that where more than 25 tons per car is loaded, it becomes necessary to have two extra men in the car to throw up and pile bags of grain above the piles five bags high as deposited on the floor of the cars by the truckers, and that in practice it must be done while the grain is being trucked in. We are satisfied from the testimony at the hearing, as well as that on the hearing of Applications Nos. 2986, 3120 and 3225, that an extra cost for such loading is justified under practical operating conditions.

Applicant claims that the geographical location of his warehouse and lack of boarding facilities makes it unusually difficult to procure and retain labor and greatly increases its cost. Applicant's warehouse is located about 12 miles from Colusa, where boarding and housing conditions are no doubt satisfactory. There are many warehouses in California not more favorably situated with reference to labor at which high-class service is rendered and at but a fraction of the cost of operation shown by applicant. While high-class service must be given and the reasonable cost thereof will apparently be willingly paid by protestants, operating costs above a reasonable allowance can not properly be charged to warehouse patrons and reflected in rates.

The testimony shows that the cost of labor at applicant's warehouse, including board and lodging, has about doubled since 1916, at which time the rates applied last season were also in force; also that there is a sharp advance in the cost of materials and supplies used. These considerations justify the increased rates set forth in the order.

The testimony shows that during last season 4,487 tons of grain and 2,733 tons of beans were stored; that to handle the business expeditiously it was necessary to maintain a warehouse force of 10 to 15 men during the rush season, at \$3.50 per day for truckers and \$4.00 for pilers, besides board and lodging of the estimated cost of about \$1.50 per man per day; and that about 90 per cent of the grain and beans went forward in cars loaded to capacity, necessitating practically double expense for the labor of loading.

It appears probable that the labor rate may have to be increased during the current season.

#### ORDER.

H. E. Woolner, doing business under the name and style of Sacramento Valley Warehouse Company, having applied to the commission for authority to increase rates for storing, weighing, loading or transferring through his warehouse at Tarke Station beans, grain and rice; also to establish separate charges for sampling stored products, stenciling bags, and for labor furnished for special service; and a public hearing having been held thereon, and the commission being fully advised in the premises, it is hereby found as a fact that rates at petitioner's warehouse at Tarke Station, now in effect, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates set forth herein are just and reasonable rates.

Basing its order on the foregoing finding of fact and on the other findings contained in the opinion which precedes this order,

*It is hereby ordered* by the Railroad Commission of the state of California that H. E. Woolner, doing business under the name and style Sacramento Valley Warehouse Company, be and he is hereby authorized to publish and file with the Railroad Commission and make effective within twenty days from the date of this order rates at Tarke Station Warehouse in accordance with the following schedule:

#### Warehouse Charges.

##### *Covering Beans, Grain and Rice.*

##### *Storage -*

Two months or less.....	\$1 25 per ton
Per season (June 1 to May 31).....	1 50 per ton

##### *Loading out stored products—*

25 tons or less.....	25 per ton
Over 25 tons to one car.....	*35 per ton

<i>Weighing and loading direct through warehouse to car</i>	
25 tons or less	\$0.65 per ton
Over 25 tons to one car	\$75 per ton
<i>Reweighing, stenciling sacks</i>	
One side only	25 per ton
Two sides	25 per ton
<i>Sampling (upon request only)</i>	
First sample, including bag	‡25
Additional samples, including bag	‡15 each
<i>Labor furnished for special service</i>	75 cents per hour per man
Resacking charged to owner of commodity at cost of labor and material used.	

\*Applies on entire contents of car.

‡Deduct 5 cents each when bags are furnished by owner.

Dated at San Francisco, California, this tenth day of August, 1918.

#### Decision No. 5665.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO MAKE, EXECUTE AND DELIVER A TRUST DEED COVERING ALL OF ITS PROPERTY TO SECURE A BONDED INDEBTEDNESS AND TO ISSUE, SELL AND DELIVER TEN MILLION DOLLARS OF ITS BONDS UNDER SAID TRUST DEED.

Application No. 3032.

*Decided August 10, 1918.*

BY THE COMMISSION.

#### THIRTEENTH SUPPLEMENTAL ORDER.

Southern California Edison Company having filed with the Railroad Commission a statement showing that it has expended for construction purposes during the month of June, 1918, the sum of \$298,391.27, and it appearing that the sum so expended was for proper capital purposes and that applicant is entitled to expend \$223,793.45 of the \$3,000,000.00 referred to in subdivision "a" of condition "3" of the order in Decision No. 4468, dated July 19, 1917, to finance in part said construction expenditures; now, therefore,

*It is hereby ordered* that Southern California Edison Company be and it is hereby authorized to use \$223,793.45 of the \$3,000,000.00 referred to in subdivision "a" of condition "3" of the order in Decision No. 4468, dated July 19, 1917, to pay in part for its construction expenditures during the month of June, 1918.

Dated at San Francisco, California, this tenth day of August, 1918.

## DECISION No. 5670.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY FOR AN ORDER AUTHORIZING SALE OF REAL PROPERTY.

Application No. 4000.

*Decided August 10, 1918.*

BY THE COMMISSION.

**ORDER.**

Applicant has filed with this commission a schedule of real property denominated "Schedule of nonoperative real property," and has asked permission to sell said real property as described in said schedule.

The commission has investigated the matter and finds that the property described is nonoperative property and not necessary or used or useful to the East Bay Water Company in the discharge of its duties to the public as a public utility, as such duties are set forth in section 51 (a) of the Public Utilities Act. The commission finds that a hearing is not necessary in the decision of this matter and same is disposed of by the following order:

**ORDER.**

The East Bay Water Company, a public utility corporation, having applied to this commission for permission to sell certain nonoperative property, and the commission finding that the application should be granted,

*It is hereby ordered* that the East Bay Water Company be and it is hereby granted permission to sell certain nonoperative real property more particularly described and set forth in a schedule filed with its application and made a part thereof, such application bearing date August 7, 1918, as follows:

## SCHEDULE OF NONOPERATIVE REAL PROPERTY.

## I.

That certain parcel of real property situated in the County of Contra Costa, State of California, and described as follows, to-wit:

Beginning at a point in the South line of Section Thirty-five (35), Township Two (2) North, Range Five (5) West, Mount Diablo Base and Meridian, said point being Six hundred sixty (660) feet due West from the Southeast corner of said section; thence North Six hundred ninety-three (693) feet to a stake; thence due West Six hundred sixty (660) feet to a stake; thence South Six Hundred ninety-three (693) feet to a granite monument and a 3 x 3 redwood stake marked 31, 30, 3, 2 and S. P. 5; thence along the North line of a road thirty (30) feet wide, East Six hundred sixty (660) feet to the point of beginning.

Containing 10.50 acres.

Being a portion of Lot 201, San Pablo Rancho, as said Lot 201 is so delineated and designated on that certain map entitled, "Map of San

Pablo Rancho, accompanying and forming a part of the Final Report of the Referees in Partition," a certified copy of which said map was filed in the office of the County Recorder of Contra Costa County, March 1, 1894; and also being a portion of Lot 31, Section Thirty-five (35), Township Two (2) North, Range Five (5) West, Mount Diablo Base and Meridian, of the swamp and overflowed lands of Contra Costa County.

## II.

That certain parcel of real property situated in the County of Contra Costa, State of California, and described as follows, to-wit:

Beginning at a point on the North line of Section Two (2), Township One (1) North, Range Five (5) West, Mount Diablo Base and Meridian, and distant Thirteen hundred fifty (1350) feet due West from the Northeast corner of said Section Two (2), said point of beginning being Thirty (30) feet due West from a granite monument marked S. P. 5, and a stake marked 31, 30, 3 and 2; thence along the West line of a road Thirty (30) feet wide South One hundred forty-three and fifteen hundredths (143.15) feet to the Northerly bank of San Pablo Creek; thence South 36° 7' West crossing San Pablo Creek Seventy-seven and forty-five hundredths (77.45) feet to a stake on the Southerly bank of said creek; thence South 0° 11' West parallel to and distant Thirty (30) feet measured at right angles Westerly from an existing fence a distance of Twelve hundred eighty-one and seventy hundredths (1281.70) feet to a stake; thence leaving said road West Five hundred seventy-eight and three-tenths (578.3) feet to a stake; thence North Fourteen hundred eighty-seven and forty-one hundredths (1487.41) feet to a 3 x 3 redwood stake marked 3, 4, 29 and 30; thence East crossing San Pablo Creek Six hundred thirty (630) feet to the point of beginning.

Containing Twenty (20) acres and being a portion of Lots 3 and 14, Section Two (2), Township One (1) North, Range Five (5) West, Mount Diablo Base and Meridian, of the marsh and overflowed lands of Contra Costa County, California.

## III.

That certain parcel of real property situated in the County of Contra Costa, State of California, and described as follows, to-wit:

Beginning at a point on the line between Sections Thirty-five (35) and Thirty-six (36), Township Two (2) North, Range Five (5) West, Mount Diablo Base and Meridian, said point being North Six hundred ninety-three (693) feet from the Southwest corner of said Section Thirty-six (36); thence East Six hundred sixty (660) feet to a stake; thence North Six hundred twenty-seven (627) feet to a 3 x 3 redwood stake marked 23, 24, 25, 26; thence along the South line of a road Twenty (20) feet wide, West Six hundred sixty (660) feet to a 3 x 3 redwood stake marked 24, 17, 32, 25, being the Northwest corner of the Southwest one-quarter (S. W.  $\frac{1}{4}$ ) of the Southwest one-quarter (S. W.  $\frac{1}{4}$ ) of said Section Thirty-six (36); thence South Six hundred twenty-seven (627) feet to the point of beginning.

Containing 9.50 acres.

Being a portion of Lot 201, San Pablo Rancho, as said Lot 201 is so delineated and designated on that certain map entitled "Map of San



Pablo Rancho, accompanying and forming a part of the Final Report of the Referees in Partition," a certified copy of which said map was filed in the office of the County Recorder of Contra Costa County, California, March 1, 1894; and also being a portion of Lot 25, Section Thirty-six (36), Township Two (2) North, Range Five (5) West, Mount Diablo Base and Meridian, of the swamp and overflowed land of Contra Costa County.

#### IV.

That certain parcel of real property situated in the County of Contra Costa, State of California, and described as follows, to-wit:

Beginning at the Southwest corner of the land of Alberto Ratto, said Southwest corner being located South  $39^{\circ} 22' 53''$  East and distant Four hundred forty-three and  $26/100$  (443.26) feet from the Northwest corner of the Southeast one-quarter (S. E.  $\frac{1}{4}$ ) of Section Two (2), Township One (1) North, Range Five (5) West, Mount Diablo Base and Meridian; thence East along the South boundary line of land of said Alberto Ratto, Nine hundred eighty-one and  $83/100$  (981.83) feet to an existing fence line; thence South  $0^{\circ} 11'$  West along said fence Four hundred forty-seven and  $94/100$  (447.94) feet to the Northeast corner of the land of Guiseppe Pippo; thence West along the North boundary line of land of said Guiseppe Pippo, Nine hundred eighty and  $40/100$  (980.40) feet to the Northwest corner of same; thence North Four hundred forty-seven and  $94/100$  (447.94) feet to point of beginning.

Containing ten and  $89/1000$  (10.089) acres.

Saving and excepting therefrom a strip of land Twenty (20) feet wide and Four hundred forty-seven and  $94/100$  (447.94) feet long, containing  $206/1000$  (.206) acres, and being the most Easterly Twenty (20) feet of the above described parcel of land, said strip to be used for road purposes.

Being a portion of Lots Nineteen (19) and Twenty (20), of Section Two (2), Township One (1) North, Range Five (5) West, Mount Diablo Base and Meridian, of the Swamp and Overflowed Land of Contra Costa County, California.

#### V.

That certain parcel of real property situated in the County of Contra Costa, State of California, and described as follows, to-wit:

Beginning at the Southwest corner of the land of Pietro Pippo, said Southwest corner being located South  $19^{\circ} 35' 29''$  East distant Eight hundred thirty-nine and  $17/100$  (839.17) feet from the Northwest corner of the Southeast one-quarter (S. E.  $\frac{1}{4}$ ) of Section Two (2), Township One (1) North, Range Five (5) West, Mount Diablo Base and Meridian; thence East along the South boundary line of the land of said Pietro Pippo, Nine hundred eighty and  $40/100$  (980.40) feet to an existing fence; thence South  $0^{\circ} 11'$  West along said fence Four Hundred ninety-four and  $69/100$  (494.69) feet to a point in the North bank of Wild Cat Creek; thence along said North bank North  $88^{\circ} 5'$  West, Two hundred forty-four and  $1/100$  (244.01) feet to a stake; thence North  $80^{\circ} 46'$  West Three hundred sixty and  $90/100$  (360.90)

feet to a stake; thence North 80° 1' West One hundred eighty-one and 87/100 (181.87) feet to a stake; thence North 73° 56' East Two hundred seven and 79/100 (207.89) feet to a stake; thence leaving said North bank North Three hundred thirty-nine and 79/100 (339.79) feet to point of beginning.

Containing Nine and 883/1000 (9.883) acres and being a portion of Lots Nineteen (19) and Twenty (20) of Section Two (2), Township One (1) North, Range Five (5) West, Mount Diablo Base and Meridian, of the Swamp and Overflowed Land of Contra Costa County, California.

## VI.

Those certain parcels of real property situated in the County of Contra Costa, State of California, and described as follows, to-wit:

First: Beginning at a 3 x 3 redwood stake marked 13, 14, 19 and 20, in the North line of a road Thirty (30) feet wide, and said stake being located Six hundred sixty (660) feet due East from the Northwest corner of the Southeast one-quarter (S. E.  $\frac{1}{4}$ ) of Section Two (2), Township One (1) North, Range Five (5) West, Mount Diablo Base and Meridian; thence North Two hundred twenty-five and 59/100 (225.59) feet to a stake; thence East Five hundred seventy-four and 82/100 (574.82) feet to a point in the Western line of a road Thirty (30) feet wide, said point being located Thirty (30) feet distant measured at right angles Westerly from an existing fence line; thence South 0° 11' West along the Western line of said road and parallel to said fence line a distance of Two hundred twenty-five and 59/100 (225.59) feet to a point in the North line of the first above mentioned road; thence West Five hundred seventy-four and 10/100 (574.10) feet to a point of beginning.

Containing Two and 975/1000 (2.975) acres, and being a portion of Lot 14, Section Two (2), Township One (1) North, Range Five (5) West, Mount Diablo Base and Meridian, of the Swamp and Overflowed Lands of Contra Costa County, California.

Second: Beginning at a point on the South line of a road Thirty (30) feet wide, said point being located South 83° 54' 43" East distant Two hundred eighty-two and 87/100 (282.87) feet from the Northwest corner of the Southeast one-quarter (S. E.  $\frac{1}{4}$ ) of Section Two (2), Township One (1) North, Range Five (5) West, Mount Diablo Base and Meridian; thence East along the South line of said road Nine hundred eighty-two and 83/100 (982.83) feet to an existing fence line; thence along said fence South 0° 11' West Three hundred twelve and 65/100 (312.65) feet to the Northeast corner of the land of Pietro Pippo; thence West along the North boundary line of land of said Pietro Pippo, Nine hundred eighty-one and 83/100 (981.83) feet to the Northwest corner of said parcel of land; thence North Three hundred twelve and 65/100 (312.65) feet to point of beginning.

Containing Seven and 52/1000 (7.052) acres, saving and excepting therefrom a strip of land Twenty (20) feet wide and Three hundred twelve and 65/100 (312.65) feet long, containing 144/1000 (0.144) acres, and being the most Easterly Twenty (20) feet of the above described parcel of land, said strip to be used for road purposes.

Being a portion of Lots 19 and 20 of Section Two (2), Township One (1) North, Range Five (5) West, Mount Diablo Base and Meridian, of the Swamp and Overflowed Lands of Contra Costa County, California.

## VII.

That certain parcel of real property situated in the County of Contra Costa, State of California, and described as follows, to-wit:

Beginning at a point in the line between Sections Thirty-five (35) and Thirty-six (36), Township Two (2) North, Range Five (5) West, Mount Diablo Base and Meridian, said point of beginning being located due North, and distant Six hundred ninety-three (693) feet from the Southeast corner of said Section Thirty-five (35), this said point of beginning also being the Northeast corner of a certain Ten and 50/100 (10.50) acre tract of land sold to Andrew Anfibolo; thence North Six hundred twenty-seven (627) feet to a 3 x 3 redwood stake marked 17, 24, 25 and 32; thence West Four hundred ninety-four and 34/100 (494.34) feet more or less to the line of Tide Land Survey; thence along this said survey line South 64° 30' West One hundred seventeen and 48/100 (117.48) feet more or less; thence South Five hundred eighty and 80/100 (580.80) feet more or less to the Northwest corner of above mentioned Ten and 50/100 (10.50) acre tract; thence East along the North line of this said Ten and 50/100 (10.50) acre tract Six hundred sixty (660) feet to a point of beginning.

Containing Nine and 20/100 (9.20) acres more or less, and being a portion of Lot Thirty-two (32), Section Thirty-five (35), Township Two (2) North, Range Five (5) West, Mount Diablo Base and Meridian, of the Swamp and Overflowed Lands of Contra Costa County, California, and a portion of Lot Two hundred one (201), as said lot is so delineated and designated on that certain map entitled, "Map of the San Pablo Rancho accompanying and forming a part of the Final Report of the Referees in Partition," of said rancho, a certified copy of which said map was filed in the office of the County Recorder of Contra Costa County, March 1, 1894.

## VIII.

That certain parcel of real property situated in the County of Contra Costa, State of California, and described as follows, to-wit:

Beginning at the point of intersection of the center line of San Pablo Creek Road, Section No. 4, with the center line of the Clark Road; thence along the center line of said Clark Road South 1° 19' West, Eight hundred forty-seven and 45/100 (847.45) feet; thence leaving said road South 85° 30' West, Three hundred fifty-four and 85/100 (354.85) feet to the boundary line between San Pablo Rancho and Rancho El Sobrante; thence along said boundary line South 4° 30' East, Twelve hundred three (1203) feet; thence leaving said boundary line North 85° 30' East, Eight hundred seventy-three and 5/10 (873.5) feet; thence North 8° 24' East, Seven hundred eighty-one and 6/10 (781.6) feet; thence North 85° 30' East, Eight hundred ninety-one and 7/10 (891.7) feet to a fence line of the Western line of Lot 33; thence along said Western line of Lot 33 North 9° 43' East, Two hundred forty-six and 9/10 (246.9) feet to the center line of the Lynch Road;

thence along said center line of Lynch Road North  $57^{\circ} 26'$  West, Four hundred ninety-two and  $3/10$  (492.3) feet to a granite monument at the intersection of the center line of said Lynch Road with above mentioned San Pablo Creek Road, Section No. 4; thence along center line of said San Pablo Creek Road North  $61^{\circ} 56'$  West, Thirteen hundred eighty-seven and  $5/10$  (1387.5) feet to the point of beginning.

Being a portion of Lot Twenty-five (25), as said Lot is so delineated and designated on that certain map entitled, "Map of the Rancho El Sobrante, accompanying and forming a part of the Final Report of the Referees in Partition of said Rancho," a certified copy of which said map was filed in the office of the County Recorder of Contra Costa County, March 14, 1910.

Containing 49.828 acres.

### IX.

That certain parcel of real property situated in the County of Contra Costa, State of California, and described as follows, to-wit:

Beginning at a granite monument and stake marked 2, 3, 30 and 31 on the South line of Section Thirty-five (35), Township Two (2) North, Range Five (5) West, Mount Diablo Base and Meridian, Thirteen hundred twenty (1320) feet due West from the Southeast corner of said Section Thirty-five (35); thence North Six hundred ninety-three (693) feet; thence West Six hundred sixty (660) feet; thence South Six hundred ninety-three (693) feet to a stake on the said South line of Section Thirty-five (35) marked 29, 30, 3 and 4; thence East along said South line Six hundred sixty (660) feet to the point of beginning.

Containing Ten and  $5/10$  (10.5) acres and being a portion of Lot 30, Section Thirty-five (35), Township Two (2) North, Range Five (5) West, Mount Diablo Base and Meridian, of the Swamp and Overflowed Lands of Contra Costa County, California.

Reserving therefrom a right of way Fifteen (15) feet wide for road purposes along and immediately adjacent to the East line of the above described parcel of land.

### X.

That certain parcel of real property situated in the County of Alameda, State of California, and described as follows, to-wit:

Beginning at the Southeastern corner of a tract of six hundred eighty-four (684) acres of land now or formerly belonging to W. S. Cull, and running thence South  $12^{\circ} 45'$  East, Twenty-three and  $25/100$  (23.25) chains along the Eastern boundary of the eight hundred sixty-one and  $57/100$  (861.57) acre tract now or formerly belonging to D. J. Kraemer and M. Henry; thence South  $62^{\circ} 30'$  West, Ninety-six and  $63/100$  (96.63) chains to a point on the Western boundary of said eight hundred sixty-one and  $57/100$  (861.57) acre tract; thence along the Western boundary of said eight hundred sixty-one and  $57/100$  (861.57) acre tract North  $5^{\circ} 30'$  East, Three and  $61/100$  (3.61) chains; thence North  $9^{\circ}$  West Twenty and  $50/100$  (20.50) chains; thence leaving said Western boundary and along the Southern boundary of above mentioned six hundred eighty-four (684) acre tract North  $62^{\circ} 30'$  East, Ninety-three and  $92/100$  (93.92) chains to point of beginning.

Being a portion of the Rancho San Lorenzo in Eden Township, Alameda County, California, and containing Two hundred thirteen and 90/100 (213.90) acres.

### XI.

That certain parcel of real property situated in the County of Contra Costa, State of California, and described as follows, to-wit:

Beginning at a granite monument in the center of the San Pablo Creek Road, said road being 66 feet wide and on the boundary line between the Ranchos San Pablo and El Sobrante, distant 186 feet South 4° 30' East from a granite monument on the said boundary line marked S.P. 166 and El Sobrante 66; thence along the center of said road South 62° East 521.4 feet to the center of the Clark Road, said Clark Road being 50 feet wide; thence along the center of said Clark Road South 1° 15' West 847.45 feet; thence leaving said road South 85° 30' West 354.85 feet to the boundary line between said Ranchos; thence along said boundary line North 4° 30' West 1123.32 feet to point of beginning; containing an area of 9.105 acres;

Being a portion of Lot No. 25, as said lot is so delineated and designated upon that certain Map entitled "Map of the Rancho El Sobrante, accompanying and forming a part of the Final Report of the Referees in Partition," a certified copy of which said map was filed in the office of the Recorder of Contra Costa County, California, March 14, 1910."

Dated at San Francisco, California, this tenth day of August, 1918.

### DECISION No. 5674.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF NOTES.

Application No. 3980.

*Decided August 10, 1918.*

*McKee & Tashira, by A. G. Tashira, for Applicant.*

LOVELAND, *Commissioner.*

### OPINION.

East Bay Water Company asks authority to execute a collateral trust agreement defining the terms and conditions under which it may issue \$1,250,000.00 of five-year 6 per cent notes payable August 1, 1923; to issue said notes and to secure the payment of said notes by pledging bonds in such an amount as will render the notes legal investments for savings banks under the California Bank Act.

By Decision No. 5072, dated January 28, 1918, the Railroad Commission authorized applicant to issue \$462,000.00 of its 5½ per cent bonds at not less than 94 per cent of their face value and accrued

interest and to use the proceeds to reimburse its treasury. By Decision No. 5279, dated April 5, 1918, the Railroad Commission authorized applicant to issue \$218,084.71 of its 5½ per cent bonds at not less than 94 per cent of their face value plus accrued interest and to use the proceeds to reimburse its treasury and after such reimbursement to pay in part \$220,000.00 of short term notes. By Decision No. 5281, dated April 5, 1918, as amended by Decision No. 5389, dated May 8, 1918, and by Decision No. 5428, dated May 25, 1918, the Railroad Commission authorized applicant to issue \$900,000.00 of its 5½ per cent bonds at not less than 92½ per cent and to use the proceeds to finance in whole or in part its expenditures on the so-called San Pablo project from and after January 1, 1918, the expenditures on said project being set forth in an exhibit attached to the petition in Application No. 3506 and being reported at \$1,171,820.00. In lieu of selling \$900,000.00 of bonds, applicant was given permission to pledge the bonds to secure the payment of one-year notes. The testimony in this proceeding shows that applicant has sold \$49,000.00 of the bonds referred to above and pledged \$255,000.00 to secure the payment of \$200,000.00 of one-year notes.

Applicant being unable to sell its bonds at a reasonable price has concluded to create an issue of \$1,250,000.00 of five-year 6 per cent notes. The notes are to be issued under an agreement which applicant proposes to execute to the Union Trust Company of San Francisco as trustee. The testimony shows that under the terms of this agreement, applicant will be obliged to deposit as collateral security for the payment of \$1,250,000.00 of five-year 6 per cent notes, such an amount of its first mortgage bonds as will render the notes legal investments for savings banks under the Bank Act of the state of California, and that at no time shall the amount of bonds deposited as collateral be less than \$125.00 face value of bonds for each \$100.00 face value of notes issued.

Applicant has sold the notes at 95¼ per cent of their face value plus accrued interest. It desires authority to use the proceeds for the same purposes for which the commission authorized the use of the proceeds from the sale of the bonds referred to in Decisions Nos. 5072, 5279 and 5281, including the payment of the \$200,000.00 of one-year notes referred to above. In the event that applicant will be able to sell any of the bonds which it proposes to deposit as collateral to secure the payment of the five-year 6 per cent notes, the proceeds obtained from the sale of such bonds will be used by it to redeem in whole or in part the five-year 6 per cent notes.

I herewith submit the following form of order:

**ORDER.**

East Bay Water Company having applied to the Railroad Commission for authority to execute a collateral trust agreement, to issue and pledge bonds, and to issue five-year 6 per cent notes, payable August 1, 1923, as indicated in the foregoing opinion, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the notes is reasonably required for the purpose or purposes specified in the order herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that East Bay Water Company be and it is hereby granted authority to issue \$1,250,000.00 of five-year 6 per cent notes, payable August 1, 1923, and to issue and pledge as collateral security for the payment of such notes, first mortgage bonds at such ratio as will render such notes legal investments for savings banks under the Bank Act of the state of California, or at the ratio of \$125.00 face value of bonds, for each \$100.00 face value of notes issued.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The notes herein authorized to be issued shall be sold by applicant for not less than 95½ per cent of their face value plus accrued interest.

2. The notes herein authorized shall not be issued until the Railroad Commission has, by supplemental order, approved the collateral trust agreement defining the terms and conditions under which the notes may be issued.

3. The proceeds obtained from the sale of the notes herein authorized to be issued shall be used by applicant for the purposes indicated by the commission in the orders found in Decision No. 5072, dated January 28, 1918, in Decision No. 5279, dated April 5, 1918, and in Decision No. 5281, dated April 5, 1918, as amended by Decision No. 5389, dated May 8, 1918, and by Decision No. 5428, dated May 25, 1918, and to pay the \$200,000.00 of one-year notes secured by the deposit of \$255,000.00 of bonds referred to in the foregoing opinion.

4. In the event that the company is able to sell any of the bonds herein authorized to be pledged, at not less than 92½ per cent of their face value plus accrued interest the proceeds obtained from the sale of such bonds shall be used by applicant to redeem five-year 6 per cent notes herein authorized to be issued, or for such other purposes as the Railroad Commission may authorize in a supplemental order.

5. East Bay Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the issue of the notes herein authorized and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. On or before the twenty-fifth day of each month, applicant shall file with the Railroad Commission a report showing the progress made in the construction of its San Pablo project during the preceding month, a detailed statement of the expenditures during said month, and the amount paid thereon.

7. The authority herein granted shall not become effective until East Bay Water Company has paid the fee specified in the Public Utilities Act.

8. The authority herein granted shall apply only to such notes as shall be issued on or before December 15, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this tenth day of August, 1918.

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DECISION No. 5675.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE AND SELL THREE HUNDRED FIFTY THOUSAND DOLLARS FACE VALUE OF 6 PER CENT DEBENTURE BONDS AND ONE HUNDRED THIRTY-THREE THOUSAND SEVEN HUNDRED DOLLARS PAR VALUE OF PREFERRED STOCK.

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Application No. 3998.

*Decided August 10, 1918.*

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*Sweet, Stearns & Forward and Chickering & Gregory, by Allen Chickering, for Applicant.*

LOVELAND, *Commissioner.*

OPINION.

San Diego Consolidated Gas and Electric Company asks authority to issue \$350,000.00 of its 6 per cent unsecured debenture bonds payable December 1, 1922, and \$133,700.00 of its 7 per cent preferred stock, or an equivalent amount face value of its debenture bonds should



it be deemed more advantageous to issue such bonds instead of preferred stock.

For a statement showing applicant's assets, liabilities, revenues and expenses, reference is here made to the Railroad Commission's Decision No. 5502, dated June 19, 1918. In that decision the Railroad Commission authorized applicant, subject to the conditions therein enumerated, to issue \$652,800.00 of five-year collateral trust 6 per cent gold notes to refund \$400,000.00 of outstanding two-year notes and finance in part capital expenditures which are to be incurred prior to May 1, 1920.

In the application now before the commission, applicant asks authority to issue debenture bonds and preferred stock to finance that part of its capital expenditures incurred or to be incurred prior to June 30, 1919, and to provide working capital against which no five-year collateral trust 6 per cent gold notes secured by first mortgage bonds can be issued. Applicant reports in its petition and in schedules annexed thereto that to June 30, 1918, it has incurred an expenditure of \$199,080.06 for capital purposes, against which no securities have been issued. For the year ending June 30, 1919, applicant estimates its capital expenditures at \$439,750.00, including \$94,400.00 for working capital. Of the \$439,750.00, applicant proposes to finance \$47,120.00 through the sale of five-year collateral trust 6 per cent gold notes and \$150,000.00 from earnings representing depreciation charges and amounts set aside for the amortization of debt discount and expenses, leaving \$242,630.00 of estimated expenditures for the year ending June 30, 1919, to be financed through the sale of debentures and preferred stock.

Applicant reports that because of the increase in business, the increase in the cost of materials and supplies and the necessity of having at this time a larger stock of materials and supplies on hand than on November 3, 1916, at which time the commission fixed applicant's gas and electric rates, it is necessary for it to increase its working capital by the sum of \$94,400.00, and thus increase its total working capital to the sum of \$300,000.00.

Mr. H. H. Jones, president of San Diego Consolidated Gas and Electric Company, testified that Southern Trust and Commerce Bank of San Diego has agreed to purchase \$350,000.00 face value of debenture bonds in approximately equal monthly installments, all to be bought, however, before June 30, 1919, at a market price to be agreed upon monthly less a 3 per cent commission. He is of the opinion that the bonds will be sold in excess of 88 per cent of their face value plus accrued interest. It occurs to me that the minimum price suggested by applicant in its petition is low and I suggest that the commission

authorize the issue of the debentures at not less than 93 $\frac{3}{4}$  per cent of their face value, permitting the company to pay a reasonable commission, such commission not to exceed the amount suggested by Mr. Jones. The debenture bonds in question will be issued under an agreement executed by San Diego Consolidated Gas and Electric Company on December 1, 1912, to the Continental and Commercial Trust and Savings Bank and Frank H. Jones of Chicago, as trustees.

I herewith submit the following form of order:

**ORDER.**

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for authority to issue debenture bonds and preferred stock, as indicated in the foregoing opinion, a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that San Diego Consolidated Gas and Electric Company be and it is hereby granted authority to issue \$350,000.00 face value of its 6 per cent debenture bonds payable December 1, 1922, and \$133,700.00 par value of its 7 per cent preferred stock, or an equivalent amount face value of its said debenture bonds should it be deemed more advantageous to issue such bonds instead of preferred stock.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The stock herein authorized to be issued shall be sold by applicant for not less than 95 per cent of its par value, the debenture bonds at not less than 93 $\frac{3}{4}$  per cent of their face value, the company being permitted to pay a commission of not exceeding 3 per cent in connection with the sale of its debenture bonds.

2. The proceeds obtained from the sale of the stock and debenture bonds herein authorized to be issued shall be used by applicant to finance in part the construction expenditures referred to in the petition herein and in schedules No. "3" and No. "4" attached to said petition, and to provide for not exceeding \$94,400.00 of working capital.

3. San Diego Consolidated Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the issue of the preferred stock and the debenture bonds herein authorized, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission in accordance with the commission's General

Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall not become effective until San Diego Consolidated Gas and Electric Company has paid the fee specified in the Public Utilities Act.

5. The authority herein granted shall apply only to such debenture bonds and stock as may be issued on or before June 10, 1919.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this tenth day of August, 1918.

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DECISION No. 5677.

IN THE MATTER OF THE APPLICATION OF SAN JOSE RAILROADS FOR  
PERMISSION TO ABANDON ITS NARROW-GAUGE LINE BETWEEN  
LINDA VISTA AND TOYON STATIONS, COUNTY OF SANTA CLARA.

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Application No. 3817.

*Decided August 10, 1918.*

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ELECTRIC RAILWAY- ABANDONMENT.-- Request for abandonment of railway service denied pending further investigation as to feasibility of furnishing some substitutional service.

*Leib & Leib*, for Applicant.

*L. H. Moise*, Protestant.

LOVELAND, *Commissioner*.

**OPINION.**

Applicant herein has requested authority to abandon a narrow-gauge street railway running from Linda Vista Station on Alum Rock avenue along Kirk avenue to McKee road and thence northerly over a private right of way to Toyon Station at a point near the Penetencia road, all in the county of Santa Clara, it being alleged that the revenue derived from the traffic offered over this line does not justify its continued operation and maintenance and that a substantial financial loss has resulted from the operation of the line herein sought to be abandoned.

Public hearings were held in San Jose June 18 and July 9, 1918, the matter was duly submitted and is now ready for decision.

The line herein sought to be abandoned is a portion of a line covered by a franchise granted on April 6, 1891, by the board of supervisors of the county of Santa Clara to R. H. Quincy for a narrow-gauge railroad between the city of San Jose and Alum Rock Park, of which franchise the applicant herein is the present owner.

The line as at present operated is cared for by the use of a one-man car and it appears that no possible additional economy can be effected by any revised method of operation which would be practicable.

A statement of the revenue and expenses of this line for the two years from March, 1916, to February, 1918, inclusive, indicates an operating loss of \$4,612.48 for the period.

The territory over which the line operates is sparsely settled and apparently the present traffic does not justify the operation of the line. The physical condition of the line is poor and to rehabilitate same to a proper standard would require, according to applicant's estimate, the expenditure of approximately \$24,000.00.

The line was originally built as a part of a through line from San Jose to Alum Rock Canyon. In the year 1911 the Alum Rock Canyon portion of the line was destroyed by floods and such portion was never rebuilt. The Peninsular Railway Company, however, built a standard-gauge line from San Jose via Berryessa to Alum Rock Park, thereby furnishing an improved service between San Jose and Alum Rock Park. The portion of the line now proposed to be abandoned is 1.45 miles in length and is all that remains of the original narrow-gauge line which extended from San Jose to Alum Rock Park via Linda Vista and Toyon.

Applicant has been required by the commission to give notice of the hearings to interested parties living along the line for which permission to abandon was requested. At the hearing no one appeared to protest, but as it afterward developed this was due to a misunderstanding of the hour of the hearing. Within a few minutes after submission of the case and adjournment, a large number of interested parties appeared, desiring to protest against the abandonment of the line. In the interest of time, applicant stipulated through its vice president, Mr. Paul Shoup, its manager, Mr. F. E. Chapin, and its counsel, Leib & Leib, that the protest of those who had appeared after adjournment might be considered as of record in the case and permission was given them to supplement their general protest by any written data they desired to file. The substance of such protest is that applicant, or its predecessor, had asked for and received a franchise to build this line and that in doing so had assumed obligations to the people who invested their money in establishing homes contiguous to the line. They also claimed that the company did not treat them fairly when, after the flood referred to, it declined to rebuild the line in question and built the line via Berryessa instead. They further claim that even now if the company would extend the line to a connection at Berryessa, thus giving two routes to Alum Rock Park, homes would be established along such line and it would become a paying proposition. This is, of course, problematical, but is something the possibility of which we believe

should be investigated by the commission before final disposition of the matter is made. This commission can not be expected to insist that public utility companies continue to operate properties at a loss, but it must proceed with care before permitting the violation by public utility companies of obligations assumed to the public.

Coincident with the filing of this application, applicant also asked permission to abandon its line from San Jose to the cemeteries, which permission the commission has granted, such permission being largely based upon the fact that applicant, recognizing the rights of the public, agreed to provide other means for reaching the cemetery.

The present application, if granted, will leave the people living along the line to be abandoned without transportation. There is no jitney service along the line and applicant has received the entire patronage of the people living in that section.

The commission is in entire sympathy with the facts recently expressed by President Wilson, by Hon. John Skelton Williams, United States Treasurer, by Hon. W. G. McAdoo, Director General of Railroads, and other thinking men, to the effect that no greater service can be done for the public by regulatory bodies than by keeping our public utilities in sound financial condition. In accordance with that principle the commission has recently granted this applicant, and lines under the same management and ownership, permission to increase their rates, but it does not appeal to us that public utilities should ask permission to increase their rates and at the same time ask to abandon service, thereby disregarding their obligations to the public, if there is any hope of such service being made self-sustaining or profitable.

I am inclined, therefore, to withhold permission to applicant to abandon this service for a period of ninety days, during which time further operation of the road can be carefully scrutinized and to give notice to the patrons of the road that if at the end of ninety days there has been no improvement and the extension to Berryessa is found to be unwise at this time, applicant may renew its application to abandon the line in question.

I suggest, therefore, that the application be dismissed without prejudice, subject to renewal at the expiration of ninety days from the effective date of the following order.

#### ORDER.

San Jose Railroads, a corporation, having made application for authority to suspend service and abandon and remove its tracks between Linda Vista and Toyen, all in Santa Clara County, public hearings having been held, the matter having been duly submitted and the commission being fully advised,

*It is hereby ordered* that for the reasons as set forth in the foregoing opinion this application be and the same hereby is dismissed without prejudice, subject, however, to the right of applicant to file similar application at the expiration of ninety days from the effective date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this tenth day of August, 1918.

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DECISION No. 5678.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY FOR AUTHORITY TO INCREASE ITS RATES FOR NATURAL GAS SUPPLIED TO ITS WESTERN DISTRICT, CONSISTING OF THE CITIES AND TOWNS OF SANTA MONICA, SAWTELLE, OCEAN PARK, VENICE, PALMS, CULVER CITY AND CONTIGUOUS UNINCORPORATED TERRITORY.

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Application No. 3447.

*Decided August 10, 1918.*

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BY THE COMMISSION.

**OPINION AND ORDER ON PETITION FOR REHEARING.**

The applications of the Southern Counties Gas Company of California to increase its rates for natural gas supplied to its consumers in its various districts, known as the southern, eastern and western districts, were filed on January 11, 1918. Thereafter, said applications were amended by requesting the Railroad Commission of California to establish reasonable rates for natural gas supplied by said applicant in said districts. Public hearings were held in and for the different districts and the matters and things incident to the applications were exhaustively investigated. Thereafter, on July 3, 1918, by Decision No. 5539, said applications were decided and just and reasonable rates fixed for the different districts of applicant, as prayed for in said applications.

Under date of August 2, 1918, the city of Santa Monica, California, through its city attorney, Victor R. McLucas, filed with the commission a petition for rehearing of said application of the Southern Counties Gas Company to have its rates adjusted in its western district. Thereafter, on August 6, 1918, the city of Venice, California, through its city attorney, Rush M. Bledgett, filed a similar petition for the city of Venice, also in the western district of said applicant.

Section 61 of the Public Utilities Act provides that the orders of the commission shall become effective twenty (20) days from the time they are rendered and service of certified copy thereof made upon parties litigant, except as otherwise provided. These petitions for rehearing, therefore, were not filed within the specified twenty days nor was any request filed with the commission within said twenty days to suspend the effective date of said orders until said petitions for rehearing could be filed. The orders of the commission are, therefore, in full force and effect. If, however, a real injustice were to be suffered by any of the parties through such failure to file applications for rehearing within the required time, the commission would be disposed to view the tardy applications with favor and to consider them on their merits. Such, however, is not the present situation.

The petitions now under consideration, namely, of Santa Monica and of Venice, both cities being in the western district, are identical, and what we may say herein refers to both. In substance, the petitions are based upon allegations that the rates charged in Santa Monica and in Venice are higher than elsewhere and because of that fact are discriminatory in character. No reference is made in the petitions for rehearing to the return upon the investment although it was clearly indicated in the decisions of the commission that the rates were based not alone upon the heat content of the gas served but also upon the return upon investment. The evidence presented at the hearing also clearly demonstrated that the three districts of the Southern Counties Gas Company, namely, the southern, eastern and western, should be considered for the purpose of establishing just and reasonable rates as separate entities, the reason being that the Southern Counties Gas Company is compelled to pay different prices for gas served these districts.

It is set forth in the opinion upon the applications of the Southern Counties Gas Company for an increase in the rates that the western district, consisting of Santa Monica, Venice, Culver City, Palms, Sawtelle and contiguous territory, is all served with mixed gas purchased from Southern California Gas Company at Sawtelle; that the cost of the gas is dependent upon the cost of oil to the latter company, as well as upon the mixture. For the present year, based upon oil at \$1.28 per barrel and a gas mixture in the proportions of that amount being served, the gas is costing \$0.289 per thousand cubic feet.

Petitions for rehearing allege that the price paid by Southern Counties Gas Company to Southern California Gas Company for gas served in the western district is excessive and that that fact is shown by the transcript of the evidence in the case; that the Economic Gas Company purchases gas at \$0.14 per thousand cubic feet. We find nothing in the transcript supporting the statement of petitioners that the price of \$0.289, not \$0.25 as stated by petitioners, is exorbitant and based upon the present price of oil Southern Counties Gas Company

will probably have to pay more for gas served this district during the year 1919. Economic Gas Company is buying some gas at \$0.14 but is unable to get all that it wants and other contracts for gas at that price can not be made.

In view of the facts as herein stated, we are of the opinion and find that the petitions of the city of Santa Monica and the city of Venice for rehearing of Application No. 3447 should be denied, and submit the following form of order:

**ORDER.**

Petitions having been received from the city of Santa Monica and the city of Venice for rehearing in the matter of the application of the Southern Counties Gas Company to establish reasonable rates for mixed gas supplied to its western district, Application No. 3447, and the commission having carefully reviewed the matter of such petitions,

*It is hereby ordered* that said petitions be and the same are hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this tenth day of August, 1918.

DECISION No. 5684.  
GLENVIEW IMPROVEMENT CLUB

*vs.*

PEOPLES WATER COMPANY.

Case No. 900.

CITY OF BERKELEY

*vs.*

PEOPLES WATER COMPANY.

Case No. 943.

CITY OF RICHMOND

*vs.*

PEOPLES WATER COMPANY.

Case No. 987.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO  
RATES, RULES AND REGULATIONS OF PEOPLES WATER COM-  
PANY.

Case No. 1008.

*Decided August 13, 1918.*

**WATER RATES—SERVICE TO MUNICIPALITIES.**—Previous order fixing increased rates to be charged by water company for service to consumers including municipalities amended to relieve municipalities from increase during present fiscal year because of practical impossibility of raising the additional sums as municipal budgets already closed.

69 11129



EDGERTON, *Commissioner*.

**OPINION AND ORDER ON APPLICATIONS FOR REHEARING.**

Applications for rehearing have been filed herein by the cities of Alameda, Richmond, Berkeley and Emeryville.

The city of Berkeley alleges that it has a fixed income and that it is impossible for it to meet any increased general service payment to the water company during the ensuing fiscal year. The cities of Alameda and Emeryville allege that it is to the best interests of those municipalities that the increase in initial public use charge should be paid by consumers rather than by the municipalities, and the city of Richmond asks for a rehearing on the ground that the rate of 20 cents per 100 cubic feet or large use is excessive and that a lower rate for such use should be established as an essential condition for the industrial growth and development of the city.

Since the order herein was made, it has developed that a number of the municipalities which were called upon by that order to pay an increased rate for water find it difficult or impossible to meet such increase by reason of municipal budgets having already been made up and, in some instances, the tax rate being such as to make the raising of additional money for this purpose impossible.

I therefore recommend that the municipalities affected be relieved for the ensuing fiscal year from the payment of increased rates for general service furnished by the water company.

A careful review of the evidence leads me to the conviction that the rates heretofore fixed by the commission will not result in the East Bay Water Company receiving two million dollars a year gross income, and in view of the fact that an increased contribution by the municipalities will not be had for the ensuing fiscal year and that the commission is convinced that this company should have two million dollars gross income per year, it becomes necessary to revise the rates heretofore fixed in order that this income will reasonably be assured.

The rates heretofore set out in the order attached to this opinion are designed to obtain this annual sum for the company and are based upon the principle of assessing a fixed service charge and, in addition, a charge for water consumed dependent upon quantity.

It should be clearly understood that the commission in no wise recedes from its conclusion heretofore announced, that municipalities should bear the increased charges set out in the previous order, but that the practical impossibility of collecting such charges during the next fiscal year is recognized, and for this reason these increased charges are not at this time assessed.

However, these municipalities must expect that at the appropriate time, when they are in a position to pay these increased charges, the rates of East Bay Water Company will be revised with a view to lifting this burden from general consumers and placing it where it belongs, upon the municipalities.

Herewith form of order:

•           **ORDER.**

Application for rehearing having been made by the cities of Alameda, Richmond, Berkeley and Emeryville, and it appearing that a public hearing is not necessary to be had upon such application,

*It is hereby ordered* by the Railroad Commission of the state of California that the order heretofore made herein, dated the first day of July, 1918, is hereby canceled and annulled.

It is hereby found as a fact by the Railroad Commission of the state of California that the existing rates of East Bay Water Company are unjust and unreasonable and that the rates hereinafter set out are just and reasonable rates to be charged for the service of water by said company to its consumers.

*It is hereby ordered* by the Railroad Commission of the state of California that East Bay Water Company is hereby authorized to file with this commission a schedule of rates, to be effective as of August 1, 1918, as follows:

**Public Use.**

Fire hydrant rentals as provided for by city ordinance in effect during fiscal year 1917-1918.

In El Cerrito, newly incorporated—\$2.50 per month per fire hydrant.

All water used through meters at general use charges.

Water used for street sprinkling and flushing sewers considered as one amount, although taken from various hydrants.

Road and street hydrants, other than under fire hydrants, charge at the rates given for private fire services, by size of connection.

**General Use Charges Monthly.**

Service charge for each meter in use:

Size meter	Per month
$\frac{3}{4}$ inch -----	80 50
1 inch -----	1 50
1 $\frac{1}{2}$ inch -----	2 50
2 inch -----	4 50
3 inch -----	8 00
4 inch -----	12 50
6 inch -----	25 00

Unit price for water used up to 50,000 cubic feet, 23 cents per 100 cubic feet.

For water used above 50,000 cubic feet, 19 cents per 100 cubic feet.

## Unmetered Services and Private Fire Taps.

Size service	Per month
1½ inch	\$1 50
2 inch	3 00
3 inch	6 00
4 inch	9 00
5 inch	12 00
6 inch	18 00
8 inch	30 00
12 inch	50 00
16 inch	100 00

*It is hereby further ordered* that before thirty days from the date hereof, said company shall submit to this commission for its acceptance, rules and regulations for the service of water to its consumers.

*It is hereby further ordered* that within ninety days from the date of this order the company shall file for the approval of the commission a plan for the disposal of superfluous lands and a statement of the time within which such disposal will be made, and shall also within said ninety days file for the approval of the commission a plan for the construction and putting into operation of modern filtration plants, together with a statement of the time within which such plant shall be completed.

*It is further ordered* that within ten days from the date of this order the company shall submit for the approval of the commission a stipulation in writing, designed to make effective the plan of treating operating expenses as mentioned in the opinion preceding the order made herein on the first day of July, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirteenth day of August, 1918.

## DECISION No. 5687.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AN ORDER READJUSTING ITS PASSENGER FARES, BETWEEN POINTS IN ALAMEDA COUNTY AND POINTS IN ALAMEDA AND CONTRA COSTA COUNTIES, CALIFORNIA.

Application No. 3219.

*Decided August 13, 1918.*

**SHORT CAR RATES INCREASE.** To provide for increased labor and other costs due to war emergency and to provide for capital expenditures necessary to assure efficient service and taking into consideration economies in operation, such as

readjustment of schedules, skip stop, one-man cars and elimination of unprofitable lines. Rates increased from five cents and multiples thereof to six cents and multiples thereof.

*Morrison, Dunn & Brobeck* and *Creed, Jones & Dull*, by *W. E. Creed*, for Applicant.

*Bishop & Bahler*, by *H. M. Wade, L. R. Bishop, R. T. Boyd*, for the city of Oakland and the Oakland Chamber of Commerce.

*P. C. Morf* and *H. L. Hagan*, for the city of Oakland.

*Frank D. Stringham* and *B. D. Marx Greene*, for the city of Berkeley and Berkeley Chamber of Commerce.

*A. F. St. Sure*, for city of Alameda.

*C. W. White*, for city of Hayward.

*T. V. O'Brien*, for citizens of Hayward.

*Sapiro, Noylan & Ehrlich*, by *J. F. Noylan*, for the East Oakland Protective League and Merchants Exchange of Oakland.

*Leon Clark*, for city of Albany.

BY THE COMMISSION.

#### OPINION.

This is an application on behalf of the San Francisco-Oakland Terminal Railways for an increase upon a fair and adequate basis in the passenger rates and fares for service rendered on the Traction Division which serves points in the county of Alameda and points in Alameda and Contra Costa counties.

The petition alleges that the revenues derived from the operation of the Traction Division of the applicant are insufficient to meet the increased costs of operation and to care for a proper depreciation allowance and render a fair and reasonable net annual return upon the value of the property of the applicant used in the operation of the aforesaid "Traction Division."

Public hearings were held in San Francisco before the commission en banc, the matter was duly submitted on May 29, 1918, and is now ready for decision.

The "Traction Division" of the San Francisco-Oakland Terminal Railways consists of a consolidation of the Oakland Traction Company, the East Shore and Suburban Railway Company, and the California Railway and serves as a street railway system the cities of Albany, Alameda, Berkeley, El Cerrito, Emeryville, Hayward, Oakland, Piedmont, Richmond and San Leandro and portions of Eden and Oakland townships in Alameda County. The total mileage of track in the several communities served consists of 125.93 miles of main line track, 75.66 miles of second track, or a total of 201.59 miles, served by thirty-seven operative lines.

The rate of fare as at present charged by applicant herein on the "Traction Division" is five cents between the city limits of Berkeley,

Alameda, Oakland, Piedmont, Emeryville and San Leandro, same including transfer privilege for trips in the same general direction within the municipalities above mentioned. Additional fares on a basis of a five-cent multiple are charged to points outside of the five-cent zone as shown on page 6, Local Passenger Tariff No. 1-A (C.R.C. No. 12), effective May 21, 1913, as filed with this commission.

Applicant furnished at the hearing on this proceeding an estimate of operating revenue and anticipated expenses for the calendar year ending December 31, 1918, together with a comparison of actual results for the calendar years 1916 and 1917. This statement, on the basis of the present rates, shows the following results:

**San Francisco-Oakland Terminal Railways.**

**TRACTION DIVISION.**

*Statement of Earnings and Expenses for Years Ending December 31, 1916 and 1917, and Company's Estimate of Earnings and Expenses for Year Ending December 31, 1918.*

	Year ending December 31, 1916	Year ending December 31, 1917	(Estimated) Year ending December 31, 1918
<b>Operating revenues—</b>			
Passenger revenue .....	\$3,039,509 39	\$3,290,398 15	\$3,397,439 79
Special car revenue .....	173 80	223 25	229 85
Mail revenue .....	6,484 09	6,460 03	6,500 00
Express revenue .....	7,843 76	7,800 19	8,112 99
Freight revenue .....	2,451 35	8,799 89	9,679 94
Switching revenue .....	16,630 97	13,988 13	582 61
Miscellaneous transportation revenue .....		23 35	25 00
Revenue from transportation .....	\$3,073,093 26	\$3,327,701 99	\$3,422,550 18
Station and car privileges .....	\$21,000 00	\$21,999 96	\$25,000 00
Demurrage .....	1,689 00	114 00	73 44
Rent of equipment .....	387 45	1,185 15	1,328 00
Rent of buildings and other property .....	161 09	313 54	320 40
Power .....	1,026 49	654 44	670 50
Miscellaneous .....	458 21	393 77	471 10
Total revenue -nontransportation .....	\$24,722 24	\$24,660 86	\$27,863 44
Total operating revenue .....	\$3,097,815 60	\$3,352,362 85	\$3,450,413 62
<b>Operating expenses—</b>			
Way and structures (maintenance) .....	\$218,295 48	\$248,235 31	\$316,815 88
Equipment (maintenance) .....	198,143 39	245,558 04	302,441 16
Power (maintenance and operation) .....	374,285 38	394,511 38	400,883 99
Conducting transportation .....	1,083,691 57	1,185,371 93	1,257,346 88
Traffic (expenses) .....	9,971 67	8,816 90	6,317 33
General and miscellaneous .....	209,750 54	210,936 91	251,896 91
Transportation for investment .....	*4,283 76	*3,487 81	*2,126 40
Total operating expenses .....	\$2,089,834 27	\$2,289,942 66	\$2,533,575 75
Net revenue .....	\$1,007,961 33	\$1,062,420 19	\$916,837 87
Ratio of operating expenses to gross operating revenue .....	67.46%	68.31%	
Ratio of operating expenses and taxes to gross operating revenue .....	73.18%	73.58%	

\*Indicates credit.

*Statement of Earnings and Expenses—Continued.*

	Year ending December 31, 1916	Year ending December 31, 1917	(Estimated) Year ending December 31, 1918
<b>Taxes assignable to operation -</b>			
Franchise percentage account gross earnings .....	\$16,418 29	\$18,179 36	\$101,146 72
Taxes, gross receipts from operation .....	159,105 48	157,028 32	
Taxes, real property and improvements .....	1,182 54	1,199 65	
Taxes, war revenue .....	171 74	71 01	
Taxes, net income .....	119 66		
Taxes, federal capital stock .....		317 13	
<b>Total taxes, percentage, etc. ....</b>	<b>\$176,997 71</b>	<b>\$176,795 47</b>	<b>\$181,146 72</b>
<b>Total operating income .....</b>	<b>\$830,963 62</b>	<b>\$885,624 72</b>	<b>\$735,691 15</b>
<b>Nonoperating income—</b>			
Net income miscellaneous physical property .....	\$109 91		\$15,000 00
Income from funded securities .....	748 52	\$795 20	
Income from unfunded securities and accounts .....	1,127 31	1,850 77	
Income from sinking fund and other reserves .....	11,280 00	11,280 00	
Miscellaneous income .....	368 87	283 81	
<b>Total nonoperating income .....</b>	<b>\$13,634 61</b>	<b>\$14,209 78</b>	<b>\$15,000 00</b>
<b>Gross income .....</b>	<b>\$844,598 23</b>	<b>\$899,834 50</b>	<b>\$750,691 15</b>
<b>Reductions from gross income -</b>			
Rent for leased roads .....	\$291 00	\$291 00	\$720,000 00
Net loss on miscellaneous physical property .....	*304 85	358 77	
Interest on funded debt .....	543,767 88	546,055 10	
Interest on unfunded debt .....	158,236 23	161,832 64	
Miscellaneous debits .....	1,063 58	3,271 01	
Interest capitalized .....	*576 28	*656 60	
<b>Totals .....</b>	<b>\$702,477 56</b>	<b>\$714,151 92</b>	<b>\$720,000 00</b>
<b>Net income for period .....</b>	<b>\$142,120 67</b>	<b>\$185,682 58</b>	<b>\$30,691 15</b>

\*Indicates credit.

Since the submission of the foregoing statement the "Traction Division" of the San Francisco-Oakland Terminal Railways have estimated that additional labor charges in amount \$405,186.68 per annum will require liquidation, principally in wages to platform men, and also additional expense for electric power in amount \$36,000.00 per annum to meet increased power rates.

The "Traction Division" of the San Francisco-Oakland Terminal Railways, in common with many other public utility properties, is faced with the rapidly increasing costs of labor and material arising from extreme conditions brought about by the war emergency.

During the month of August, 1917, an agreement was made with the Amalgamated Association of Street and Electric Railway Employees of America, representing the platform men in the employ of applicant, said agreement submitting to arbitration the question of a revised wage

scale to be accorded platform employees. Following such agreement an arbitration board was appointed and the report of said board of arbitration, which was accepted by all concerned, will add approximately \$240,000.00 per annum to the operating expenses of the applicant herein. Other demands for increased compensation have been made by other employees than trainmen and in many instances the demands have been allowed, otherwise the employees could not have been retained in view of higher compensation offered by shipbuilding concerns and other industries.

This commission has always recognized the justice of applications for increased rates by utilities when same are rendered necessary by reason of increased wage payments to employees of such utilities and it is conversant with the necessity for increases that must be made if competent employees are to be retained in the service of public utility companies.

The cost of material and supplies entering into the expense of properly maintaining and operating the property of applicant has also materially increased and it is estimated that an annual increase of \$46,481.75 will be brought about from this source.

The service as at present rendered to the public must be maintained at a high standard and any radical reduction in operating expenses will be directly reflected in the class of service as rendered by the applicant to the communities which it serves. The petition of applicant under section 6, paragraph "C" contained the following statement in this regard:

"Said 'Traction Division' has been at all times herein mentioned and now is efficiently and economically operated and that no saving in the cost of operation can be made without substantially and materially decreasing the quality of the service rendered by said 'Traction Division'; that the service rendered and furnished by said 'Traction Division' has been at all times herein mentioned and now is good, adequate and reasonable service."

The commission directed its service inspector, Mr. W. J. Handford, to make a report and analysis of the service now rendered with a view to suggesting economies in operation if such were possible without interfering with the quality of service which should be accorded the patrons of the company and the communities served.

Mr. Handford's report, which was not questioned by the company, indicated possible savings in operating expenses in amount \$193,313.91 per annum, said economies including the following items:

Adjustment of schedules .....	\$68,783 74
Skip-stop plan (on basis of .143 cent per stop eliminated) .....	42,377 23
One-man cars .....	55,806 71
Elimination of unprofitable lines .....	26,346 23
	<hr/>
	\$193,313 91

The economies as suggested by the commission's service inspector have all been placed in effect, with the exception of the recommendation as to one-man cars, and such will result in the reduction of a portion of operating costs without decreasing the quality of service rendered by the applicant.

In order that the property of the "Traction Division" of the San Francisco-Oakland Terminal Railways may be maintained to the standard of efficiency necessary to furnish adequate service to its patrons and the large number of communities which it serves, certain capital expenditures are immediately necessary. The company's original estimate of the amount required to be so expended was \$2,883,228.75. In view of the necessity for economy, due to the war emergency, and after careful investigation by the commission, this amount has been reduced to \$1,181,979.32 and to cover the following items:

Track reconstruction and paving .....	\$363,955.32	
Construction of second track on present single track lines.....	170,212.00	
New track connections, etc. ....	55,000.00	
Lines into districts inadequately served .....	31,600.00	
Equipment:		
25 One-man cars .....	\$162,500.00	
25 New center entrance cars for main traffic lines .....	275,000.00	
10 Trailer cars for main traffic lines .....	55,000.00	
4 Dump cars for handling rock, ballast, etc., ....	8,712.00	
1 Electric locomotive .....	15,000.00	316,212.00
Miscellaneous new construction (principally for new electric feeder lines in outlying districts, same necessary to ensure proper power distribution) .....	45,000.00	
Total .....		\$1,181,979.32

The company should be allowed in its operating revenue a return on the capital, which should be immediately expended on the above-mentioned items, which are necessary if proper and adequate service is to be rendered. The various items of equipment contained in the above statement are urgently needed and should be provided at the earliest possible moment, particularly the one-man cars as recommended by the commission's service department, as the economies to be effected by their use will offset the capital invested within a three-year period; and the center entrance and trailer cars, which are necessary to replace cars of heavier weight and obsolete type now being operated at heavy expense on many of the main arteries of the traction system. The other items in the foregoing statement are comparatively small in amount, in view of the urgent need for rehabilitation of track and paving on some of the trunk lines, and the necessity for construction of second track and new track connections, all of which will result in improved facilities and more economical maintenance and operation.



The engineering department of the commission has determined that the reproduction value, less depreciation, of the operative property of the "Traction Division" of the San Francisco-Oakland Terminal Railways, as of December 31, 1917, is \$9,803,233.86.

The amount upon which a rate of return should be anticipated, in the opinion of the commission, is as follows:

Reproduction value less depreciation.....	\$9,803,233 86
Necessary additional capital expenditure.....	1,181,979 32
Working capital .....	50,000 00
<b>Total .....</b>	<b>\$11,035,213 18</b>

The revenue and expenditures, as estimated by the company, for the fiscal year 1918, and as submitted as an exhibit during one of the hearings on this proceeding, are as follows:

Operating revenue, all sources (on present rate of fare).....	\$3,450,413 62
Operating expenses (including depreciation).....	2,533,575 75
<b>Net revenue .....</b>	<b>\$916,837 87</b>
Taxes assignable to operation.....	181,146 72
<b>Total operating income .....</b>	<b>\$735,691 15</b>
Non-operating income .....	15,000 00
<b>.....</b>	<b>\$750,691 15</b>
Necessary for interest on funded and unfunded debt .....	\$720,000 00

Since the submission of the foregoing estimate, additional expenditures have accrued and are anticipated, as follows:

Additional labor cost, as accrued and anticipated.....	\$405,186 68
Additional cost of power .....	36,000 00
<b>.....</b>	<b>\$441,186 68</b>
From the above amount should be deducted the estimated operating savings, as found by the service inspector of the commission, amounting to .....	193,313 91
<b>Net increased costs .....</b>	<b>\$247,872 77</b>

A revised statement of estimated revenues and expenses, including the additional costs above mentioned, would result in the following figures:

Operating revenues, all sources (based on present rates of fare).....	\$3,450,413 62
Operating expenses (including depreciation).....	2,781,148 52
<b>Net revenue .....</b>	<b>\$668,965 10</b>
Taxes assignable to operation.....	181,146 72
<b>Total operating income .....</b>	<b>\$487,818 38</b>
Necessary for interest on funded and unfunded debt .....	\$720,000 00
Percentage of return for payment of interest and on capital investment of \$11,035,213.18 .....	4.42 %

The requirements of the many communities and patrons of the "Traction Division" of the San Francisco-Oakland Terminal Railways necessitates the operative properties of such applicant being maintained in a proper state of efficiency that adequate and satisfactory service may be rendered, and it is evident that such efficiency and service can not be maintained, or rendered, if the return derived from the rates and charges is not sufficient to meet the necessary and increasing expenses of the applicant. At the various hearings on this application no person appeared in protest against an increase in fares or a readjustment of rates as requested by the applicant herein, and the investigation made by the commission into the matter of possible operating economies was the only testimony other than that introduced by the applicant in support of its petition.

After careful consideration of all the evidence in this proceeding and a minute study of the voluminous exhibits filed by the applicant herein, we are of the opinion, and find as a fact, that the rates as at present charged by the applicant on its "Traction Division" are not productive of adequate revenue to enable the property to be maintained and operated at the proper plane of efficiency to satisfactorily serve the public in the communities in and through which it operates.

#### ORDER.

Public hearings having been held in the above-entitled proceeding, the matter having been duly submitted and the commission being fully advised and basing its order on the finding of fact, as set forth in the preceding opinion.

*It is hereby ordered* that the San Francisco-Oakland Terminal Railways be authorized to establish within twenty (20) days from the date of this order, a schedule of rates on the basis of six (6) cents between the city limits of Berkeley, Alameda, Oakland, Piedmont, Emeryville and San Leandro, same to include transfer privileges for trips in the same general direction within the municipalities above mentioned. Additional fares to be charged on a basis of a six-cent multiple instead of a five-cent multiple, as now appearing, to points outside the former five-cent zone, as shown on page six (6), Local Passenger Tariff No. 1-A (C.R.C. No. 12), effective May 31, 1913, and filed with this commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirteenth day of August, 1918.

## DECISION No. 5688.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY FOR AN ORDER FIXING WATER RATES.

Application No. 4010.

*Decided August 15, 1918.*

BY THE COMMISSION.

**ORDER.**

Sierra and San Francisco Power Company having applied for the establishment of a rate to be charged for the delivery of water to its domestic, mining and irrigation consumers, which water has been impounded in its new Strawberry reservoir for power purposes, and, because of the extreme drought, an insufficient supply is available from the sources ordinarily used for domestic, mining and irrigation purposes, and this action being taken on advice and in conjunction with the United States Food Administration, and wherefore investigation has been made of the expense to the company of diverting this water, and the commission being fully advised, and believing that this is not a proceeding in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that Sierra and San Francisco Power Company be and is hereby authorized to charge and collect twenty-five cents (25¢) per miner's inch (1.42 second-foot) per day for water used for mining and irrigation and fifty per cent (50%) of its charges for water used for domestic purposes in addition to the present legal rate.

*It is further ordered* that the rates herein established shall be effective on and after the date of this order and shall continue in effect only during the existing emergency.

*It is further ordered* that water shall be delivered only under a waiver agreement whereby the consumer receiving the service and Sierra and San Francisco Power Company agree that no rights shall accrue to either party because of this delivery.

Dated at San Francisco, California, this fifteenth day of August, 1918.

## DECISION No. 5690.

IN THE MATTER OF THE REORGANIZATION OF PETALUMA AND SANTA ROSA RAILWAY COMPANY AND OF THE APPLICATION FOR AUTHORITY TO TRANSFER THE PROPERTIES OF SAID COMPANY TO A NEW COMPANY TO BE HEREAFTER INCORPORATED AND FOR PERMISSION TO ISSUE STOCKS AND BONDS OF SAID NEW COMPANY.

Application No. 3917.

*Decided August 16, 1918.*

*Goodfellow, Eells, Moore & Orrick, by W. H. Orrick, for Applicant.*

LOVELAND, *Commissioner*.

#### OPINION.

This is an application which involves the reorganization of Petaluma and Santa Rosa Railway Company. The application contemplates that the company's properties be transferred to a new corporation and the new corporation issue stocks and bonds to acquire the properties and pay outstanding indebtedness.

Petaluma and Santa Rosa Railway Company was organized on or about May 22, 1903, with an authorized capital stock issue of \$1,000,000.00, divided into 10,000 shares of the par value of \$100.00 each. Stock in the amount of \$994,100.00 is reported as outstanding. The company also reports \$655,000.00 face value of 5 per cent first mortgage bonds due March 1, 1924, and \$217,000.00 face value of 6 per cent second mortgage bonds due April 1, 1917, as outstanding. In addition, \$80,000.00 of first mortgage and \$33,000.00 of second mortgage bonds are pledged to secure the payment of \$76,600.00 of notes. The company has regularly paid the interest on both the first and second mortgage bonds and on the outstanding notes. It has found it impossible, however, to pay the sinking fund established by the first mortgage or the principal of the second mortgage bonds due April 1, 1917. Because of the failure of the company to pay the second mortgage bonds at maturity, the First Federal Trust Company, trustee under the mortgage, brought an action in the Superior Court of the state of California in and for the county of Sonoma to foreclose the mortgage securing the payment of the second mortgage bonds. The Mercantile Trust Company, trustee under the first mortgage, was given permission to intervene. A foreclosure decree has been entered by the court.

The reorganization plan, a copy of which is on file herein, provides for the formation of a new corporation with an authorized stock issue of \$1,250,000.00, divided into \$1,000,000.00 of common and \$250,000.00 of 6 per cent cumulative preferred stock. The preferred stock is to be redeemable at par. The new corporation is also to have an authorized issue of \$750,000.00 of 5½ per cent twenty-five-year first mortgage bonds. The mortgage under which the bonds are to be issued is to provide that the net earnings ordinarily applicable to dividends on common stock may be applied and paid as such dividends up to the sum of \$25,000.00 in any one year; but that if such net earnings exceed \$25,000.00 in any year, and are not needed for the company's business requirements in the opinion of the directors, any available excess of such net earnings over \$25,000.00 per annum shall be allotted and paid, one-half thereof as additional dividend on the common stock, one-quarter thereof to a sinking fund to redeem said first mortgage bonds at not exceeding 105

per cent, and the remaining one-quarter as a sinking fund to redeem the preferred stock at par.

As said, this application contemplates the transfer of the properties of Petaluma and Santa Rosa Railway Company to a new corporation. To pay and refund the \$655,000.00 of first mortgage bonds now outstanding the new corporation would issue \$655,000.00 5½ per cent twenty-five-year first mortgage bonds. The owners of the \$217,000.00 of second mortgage 6 per cent bonds are to receive first mortgage bonds of the new corporation in an amount equal to 20 per cent of the face value of the bonds now owned by them, preferred stock in an amount equal to 80 per cent of the face value of the bonds now owned by them, and common stock in an amount equal to 20 per cent of the face value of the bonds now owned by them. To pay and refund the \$217,000.00 of second mortgage bonds, the new corporation would issue \$43,400.00 of first mortgage bonds, \$43,400.00 of common stock, and \$173,600.00 6 per cent preferred stock, making a grand total of \$260,400.00. All of the owners of second mortgage bonds and all of the owners of first mortgage bonds, excepting an individual who owns \$5,000.00 of said bonds, have approved the reorganization plan.

Any owner of shares of stock of the Petaluma and Santa Rosa Railway Company may become a party to the reorganization plan—

“By subscribing for and purchasing such a proportion, or any less part, of the common stock of the company, which shall not have been issued to parties of the second part in exchange for second mortgage bonds, as the number of railway shares held by him shall bear to said total number of 9,941 outstanding railway shares (fractional shares to be avoided by allotment of the nearest even number), and by paying in cash to the depositary the sum of ten dollars (\$10) per share for each share of common stock of the company so subscribed by him. Such stockholder by making such subscription shall be deemed to have assented to and be bound by all of the terms and conditions hereof. The depositary may require such subscribers to produce their certificates of stock of the railway as evidence of the right to subscribe. This privilege of subscription shall be assignable. Any shares of common stock of the company which shall not have been so subscribed and paid for on or before ten days after the incorporation of the company (except the shares to be exchanged for second mortgage bonds as aforesaid) may by the company be allotted and sold at said price of ten dollars (\$10) per share to any shareholder or shareholders of the railway.”

Mr. L. B. Mackey, secretary of the reorganization committee, testified that the First Federal Trust Company is willing to advance to the stockholders for a period of one year at 6 per cent interest per annum

such an amount as they may desire for the purpose of paying for stock subscriptions in the new corporation. The proceeds realized from the subscription of the common stock of the new corporation will be used to pay off floating indebtedness of the Petaluma and Santa Rosa Railway Company, that is, the \$76,600.00 of short term notes. The remainder of the proceeds will be used to pay reorganization expenses or for such other purposes as the board of directors may deem advisable.

Applicant has not submitted to the commission a statement of its reorganization expenses. Mr. Mackey testified that every effort is being made to keep the reorganization expenses at a minimum. The members of the reorganization committee receive no compensation. No receiver has been appointed to take possession of the properties, so that there will be no receiver's salary nor any payment for receiver's counsel. The foreclosure decree fixes the compensation of the Mercantile Trust Company of San Francisco, trustee under the first mortgage, at \$2,506.40, and the compensation of counsel for Mercantile Trust Company at \$1,500.00. The compensation of the First Federal Trust Company, trustee under the second mortgage, is fixed at \$519.50, and that of its counsel at \$1,000.00. I recommend that no part of the funds contributed by the stockholders be used to pay reorganization expenses, unless authorized by the commission, after a detailed statement of such expenses has been filed with the commission.

Applicant in Exhibit No. 3 estimates the results of twelve months' operation based on 1917 gross earnings plus increase in rates granted by the Railroad Commission in 1917 and using the 1917 operating expenses plus actual and prospective increase in 1918, as follows:

Gross earnings .....	\$376,303 44
Operating expense .....	289,460 10
Net from operations .....	\$86,843 34
Less taxes .....	10,500 00
Gross income .....	\$76,343 34
Interest .....	45,770 00
Surplus .....	\$30,573 34

It will be noted that for the twelve months the company estimates its gross income at \$76,343.34 as compared with a gross income of \$67,664.00 in 1916 and a gross income of \$65,691.43 in 1917. The estimated earning statement does not take into account the increase in rates allowed by the commission in its recent decisions.

Applicant in Exhibit No. 2 reports the assets and liabilities of the Petaluma and Santa Rosa Railway Company as follows:

*Asset Accounts:*

Property account .....	\$2,008,694 84
Current assets .....	63,249 47
Cash .....	\$21,372 73
Due from agents .....	9,053 09
Due from other railroads .....	10,306 90
Accounts receivable .....	1,617 81
Materials and supplies .....	20,808 94
Sinking Fund .....	169 78
Unadjusted debits .....	4,456 87
Insurance .....	879 67
Miscellaneous accounts .....	3,577 20
Profit and loss .....	960 71
Total assets .....	\$2,167,531 67

*Liability Accounts:*

Capital stock outstanding .....	\$994,100 00
Funded debt .....	\$72,000 00
First mortgage bonds .....	\$735,000 00
Second mortgage bonds .....	250,000 00
	\$985,000 00
Less bonds pledged:	
First mortgage .....	\$80,000
Second mortgage .....	33,000 113,000 00
Current liabilities .....	95,166 51
Notes payable .....	\$76,000 00
Audited vouchers .....	18,596 51
Accrued liabilities .....	18,597 66
Interest .....	\$14,181 31
Taxes .....	4,416 35
Unadjusted credits .....	105,049 32
Account depreciation and equipment .....	\$93,063 37
Compensation insurance reserve .....	11,092 16
Miscellaneous credits .....	884 79
Surplus .....	\$2,627 18
Total liabilities .....	\$2,167,531 67

In Exhibit No. 1, Petaluma and Santa Rosa Railway Company reports the "valuation" of its properties as of June 30, 1918, at \$1,778,706.33. To acquire these properties the new corporation proposes to issue:

Common stock .....	\$1,000,000 00
Preferred stock .....	173,600 00
First mortgage bonds .....	698,400 00
Total stocks and bonds .....	\$1,872,000 00

I do not believe that it is necessary for the purpose of this proceeding to make a specific finding as to the cost or value of the properties here involved. I believe that under the facts and circumstances as revealed by the evidence herein, the commission should permit the issue of securities as outlined in the reorganization plan. It will, of course, be understood that neither the reorganization committee, nor the new corporation or its successors or assigns, will at any time urge the commission to consider the amount of securities hereafter authorized to be issued in this proceeding as a rate base.

The reorganization plan provides for a voting trust, effective for a period of seven years, under the terms of which the preferred stockholders are given control of the properties in the event that the dividends on the preferred stock are not paid regularly. I believe that all classes of stockholders should have all the power and control to which their ownership entitles them. I do not believe that one class of stockholders should be restricted in their complete enjoyment of all their usual rights. However, as they have seen fit, or may be willing, to surrender their rights, the commission should not, in my opinion, interpose any objections.

Neither the articles of incorporation nor the deed of trust of the new corporation have been filed with the Railroad Commission. Obviously, no final order can be made at this time in this proceeding. The commission can authorize the transfer of the properties and indicate the maximum amount of stocks and bonds which it will permit a new corporation to issue for the purpose mentioned herein, and supplemental order or orders to be made when these matters are definitely presented to the Railroad Commission.

I herewith submit the following form of order:

#### ORDER.

Application having been made to the Railroad Commission for an order authorizing the sale and transfer of the properties of the Petaluma and Santa Rosa Railway Company, about to be sold at foreclosure sale, and for an order authorizing the issue of stocks and bonds, and a public hearing having been held,

*It is hereby ordered* that whosoever may be the purchaser of the properties of the Petaluma and Santa Rosa Railway Company, about to be sold under a decree of foreclosure, be and the same is hereby authorized to sell, transfer and convey all of the properties, real, personal and mixed, described in the decree of foreclosure- a copy of which is attached to the petition herein- so purchased, to a corporation to be hereafter organized, and said corporation, when organized, is hereby authorized to acquire said properties and to issue in payment therefor



and for such other purposes as the Railroad Commission may authorize  $5\frac{1}{2}$  per cent twenty-five-year first mortgage bonds in an amount not to exceed \$698,400.00, common stock in an amount not to exceed \$1,000,000.00, and 6 per cent cumulative preferred stock in an amount not to exceed \$173,600.00; provided, that this order shall not become effective until a supplemental order shall have been made by the Railroad Commission after there has been presented to the Railroad Commission the name or names of the person or persons who may have purchased said properties through said foreclosure sale, the articles of incorporation and trust deed of the corporation hereafter to be organized to acquire said properties, a complete description of the properties acquired at said foreclosure sale and to be transferred to said new corporation, together with a statement showing the amount of money received at the foreclosure sale; provided, further, that none of the moneys realized through the issue of common stock shall be expended until a supplemental order or orders have been made by the Railroad Commission specifying the purposes for which said moneys may be expended; provided, further, that this order shall not become effective until there has been filed by a person or persons properly authorized a stipulation to be approved by the Railroad Commission to the effect that the reorganization expenses will, at such times, in such amounts and in such manner as the Railroad Commission may order, be amortized out of income.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixteenth day of August, 1918.

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DECISION No. 5695.

IN THE MATTER OF THE APPLICATION OF J. G. PETERS FOR AN  
ORDER AUTHORIZING INCREASE OF RATES FOR ELECTRICITY.

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Application No. 3943.

*Decided August 16, 1918.*

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BY THE COMMISSION.

**ORDER.**

Whereas J. G. Peters, operating an electric distribution system serving the towns of Dutch Flat and Alta, and who contemplates selling electricity to the public in the town of Gold Run, all in Placer County, California, for lighting and small power service, has applied to this

commission for authority to increase rates for electricity sold by him to his consumers by the charging of a meter rate in place of the existing flat rate; and

Whereas the selling of electric energy under meter rates rather than flat rates is essential to the ultimate attainment of effective results pursuant to the policy of conservation, which is being urged by our national government; and

Whereas the rates applied for, as herein set forth, appear to be reasonable under present conditions of operation for the service rendered by applicant,

*It is hereby ordered* that applicant, J. G. Peters, be and he is hereby authorized to discontinue the charge of flat rates for electric service and to charge and collect for electric energy sold, based on all regular meter readings taken on and after August 26, 1918, the following rates:

*Schedule for Commercial and Residence Lighting and Small Power Service,  
Based on Monthly Consumption per Meter.*

10 cents per kilowatt hour for the first 30 kilowatt hours per month.

6 cents per kilowatt hour for all over 30 kilowatt hours per month.

Minimum monthly charge, \$1.25 per meter.

Dated at San Francisco, California, this sixteenth day of August, 1918.

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DECISION No. 5697.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING A REDUCTION IN THE NUMBER OF TRAINS OPERATING DAILY OVER ITS RAILWAY BETWEEN SAN DIEGO AND LA JOLLA.

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Application No. 3984.

*Decided August 24, 1918.*

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REDUCTION RAILROAD SERVICE. Due to increased cost of operation and existence of automobile competition steam railroad authorized to reduce train schedule and to run gas motor in lieu of steam train operation.

W. R. Lyon, for Applicant.

DEVLIN, *Commissioner*.

OPINION.

Los Angeles and San Diego Beach Railway Company, a corporation, has applied to the Railroad Commission for permission to decrease the number of scheduled trains operated on its line of railway and serving San Diego and La Jolla and intermediate points, all within the city limits of the city of San Diego.

A public hearing was held at San Diego on August 7, 1918, the matter was duly submitted and is now ready for decision.

The proposed train schedule contemplates a reduction to a schedule of three round trips daily and contemplates the entire elimination of steam train operation, the three round trips to be operated by a gasoline motor car.

Exhibits introduced by the applicant at the hearing on this proceeding indicate that the total income for the year ending December 31, 1917, amounted to \$44,352.15. The expense of operation amounted to \$54,496.75, leaving a deficit of \$10,144.60. The operating statement for the six months ending June 30, 1918, shows a total revenue of \$25,242.48, operating expense in amount \$26,953.61, or a deficit of \$1,711.13. Applicant has been able to purchase fuel oil for use in its steam locomotives under a contract by which oil cost .77 cents per barrel. This contract, however, expired on August 1, 1918, and oil will now be required to be purchased in the general market at an expense of approximately \$1.75 per barrel. The expense of material and the cost of labor entering into the operation of steam trains has also increased and there appears no method by which the operation of steam trains can be continued without greatly increasing the deficit which has already accumulated.

The increasing use of privately-owned automobiles and the competition furnished by a stage line now operating between San Diego and La Jolla have seriously affected the passenger travel on the line of the applicant, and the record of the number of passengers carried shows a substantial decrease over that appearing in former years.

At the hearing on this application no protestants appeared objecting to the granting of the application, although the customary notice as required by the commission was duly posted in the cars and stations of the applicant and proof of such posting was made at the hearing.

After careful consideration of the evidence and exhibits filed in this proceeding, I am of the opinion that the increased costs of operation of steam passenger trains is not justified by the limited amount of traffic to be handled and that the application should be granted permitting applicant to operate its line by the use of a gasoline motor car and in accordance with the schedule as filed with the application in this proceeding.

Herewith the following suggested order:

#### ORDER.

A public hearing having been held in the above-entitled proceeding, the matter having been duly submitted, and the commission being fully advised,

*It is hereby ordered* that this application be and the same hereby is granted and that a schedule on a basis of three trains each way per day between San Diego and La Jolla be effective after one day's notice will have been given by posting of revised schedule at all agency stations on the line of the Los Angeles and San Diego Beach Railway and filing same with this commission.

Dated at San Francisco, California, this twenty-fourth day of August, 1918.

DECISION No. 5706.

IN THE MATTER OF THE APPLICATION OF IMPERIAL VALLEY GAS COMPANY FOR AUTHORIZATION TO INCREASE RATES.

Application No. 3922.

*Decided August 26, 1918.*

*R. B. Whitlaw, J. Stewart Ross and J. M. Ott, for Applicant.*  
*J. S. Larcu, for city of El Centro.*  
*H. N. Dyke, for city of Imperial.*

BY THE COMMISSION.

OPINION.

This is the application of Imperial Valley Gas Company for authority to increase its rates charged for gas.

Imperial Valley Gas Company operates an artificial gas plant in El Centro and distributes gas in El Centro, Imperial and Brawley.

Applicant alleges in effect that because of the great increase in the price of oil, labor and materials it is impossible to continue to operate under the existing rates except at a material loss.

Applicant's existing rates are as follows:

1 to 4,999 cu. ft. consumed per month .....	\$2.40 per M. cu. ft.
5,000 to 9,999 cu. ft. consumed per month .....	1.60 per M. cu. ft.
10,000 to 24,999 cu. ft. consumed per month .....	1.50 per M. cu. ft.
25,000 and over cu. ft. consumed per month .....	1.30 per M. cu. ft.
Minimum monthly charges, \$1.00 per meter per month.	

Hearing in these proceedings was held in El Centro before Examiner Westover on July 31, 1918, at which time testimony was taken and the matter submitted.

In applicant's Exhibit No. 1 there is contained an inventory and valuation as of June 30, 1918, of which the following is a summary:

Landed capital .....	\$3,000 00
Production capital .....	33,422 00
Transmission capital .....	25,883 00
Distribution capital .....	62,602 00
General capital .....	9,934 00
Intangible capital .....	52,175 00
Engineering expenses .....	14,971 00
Materials and supplies .....	2,112 00
Total capital .....	\$203,209 00

It developed at the hearing that the above valuation was compiled from actual costs so far as obtainable. It also developed that there are several omissions in the inventory used, and the total capital charges had, in some instances, not been included.

Mr. W. J. Hammond, assistant engineer of the gas and electric department of the commission, testified that after having checked the details upon which applicant's valuation was based, and disregarding the item of \$52,175.00 claimed by petitioner, as cost of franchises and rights of way, it was his opinion that the physical value of applicant's properties would total \$200,000.00, and that amount will be used for the purposes of these proceedings.

Applicant has suffered a continually increasing cost of oil from 1915, when the cost was \$1.345 per barrel, until the present time, when the oil price is \$2.52 per barrel at El Centro. During this period applicant's gross revenue has increased from \$42,956.19 in 1915 to \$54,591.94 in 1917, while the net operating revenue has increased only \$27.40.

This utility has not, since its inception, earned a sufficient return to enable it to set aside a depreciation reserve. From the evidence submitted in these proceedings it appears that certain elements of applicant's physical properties, particularly pipe in the ground, deteriorate very rapidly due to local conditions, and for this reason a higher rate of depreciation should be allowed than in other districts.

During 1917 applicant earned only \$9,062.40 for interest and depreciation and the increased cost of oil alone during the ensuing year will amount to over \$5,000.00, leaving approximately \$4,000.00 to cover other increases and interest charges and depreciation. Interest on applicant's outstanding bonds amounts to an annual charge of \$10,320.00, and it is apparent that relief is absolutely necessary to safeguard applicant's financial standing. The rates established in the following order will give, in the commission's opinion, sufficient relief to meet bond interest requirements and increased expenses.

Due to the exceptionally hot weather that is experienced in the Imperial Valley during the summer months, many people are in the habit of leaving the valley at this time, which, as applicant maintains, has required in the past the removal and then, after a short time, the installation of numerous meters. To reduce the number of meter renewals, thereby reducing certain of applicant's expenses, the commission has deemed it advisable to eliminate the monthly minimum bill as applying to general domestic service for the two summer months of July and August.

On the other hand, because of the increased freight rates on crude oil and other materials to Imperial Valley, and the high cost of labor, materials and supplies, all of which applicant must bear, and also the reduction of number of consumers and in turn a reduction in gas sales during the before-mentioned summer months, the commission has considered this case to be a special one, in so far as the operating conditions differ from conditions of other companies of similar size operating within the state. It therefore has seemed advisable to the commission to deviate from the customary minimum monthly charge of \$1.00 and in this instance to allow a minimum monthly charge of \$1.50, except as stated above for the months of July and August.

Although normally an increase such as is granted in the following order would not result in a material net revenue because of the consequent drop in sales, it is evident that conditions in this particular territory are of such a nature that the gas sales may not be affected greatly.

Applicant asks that some form of discount rate be allowed to encourage prompt payment of bills and the resultant decrease in collection expense.

#### ORDER.

Imperial Valley Gas Company having applied to the Railroad Commission of the state of California for a revision of its gas rates, and a public hearing having been held and the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates charged by Imperial Valley Gas Company for gas are unjust and unreasonable in so far as they differ from the rates and charges herein established, and that the rates and charges herein established are just and reasonable under the existing conditions.

Basing its order on the foregoing findings of fact, and on each statement of fact contained in the opinion preceding this order.

*It is hereby ordered* that Imperial Valley Gas Company be and it is hereby authorized to charge and collect the following rates for artificial gas, provided said rates shall have been filed with the Railroad Com-

mission on or before September 6, 1918. Such rates shall be applicable to all regular meter readings taken on and after August 26, 1918:

**General Service.**

		Gross	Net
First	3,000 cu. ft. per meter per month----	\$2 60	\$2 50 per M. cu. ft.
Next	7,000 cu. ft. per meter per month----	2 20	2 10 per M. cu. ft.
Next	10,000 cu. ft. per meter per month----	----	1 75 per M. cu. ft.
Next	30,000 cu. ft. per meter per month----	----	1 50 per M. cu. ft.
All over	50,000 cu. ft. per meter per month----	----	1 40 per M. cu. ft.

Minimum monthly bill, \$1.50, except during the months of July and August when no minimum bill applies.

**Restaurant Service.**

		Gross	Net
First	10,000 cu. ft. per meter per month - -	\$1 70	\$1 65 per M. cu. ft.
All over	10,000 cu. ft. per meter per month----	----	1 50 per M. cu. ft.

Minimum monthly bill, \$30.00.

The net rate is effective if the bill is paid at the office of the company on or before the tenth of the month next succeeding that for which the bill is rendered, otherwise the gross rate is effective.

Dated at San Francisco, California, this twenty-sixth day of August, 1918.

**DECISION No. 5707.**

**IN THE MATTER OF THE APPLICATION OF MODESTO GAS COMPANY  
TO FIX ITS RATES CHARGED FOR GAS.**

**Application No. 3927.**

*Decided August 26, 1918.*

*Frank A. Cressey*, for Applicant.

*Albert L. Johnson*, for consumers.

*Dr. J. E. Hosmer*, for consumers.

BY THE COMMISSION.

**OPINION.**

This is the application of Modesto Gas Company for an increase in its rates charged for gas.

Applicant operates an artificial gas plant and distribution system located in the city of Modesto.

Applicant alleges in effect that the contract by which it secures oil at 80 cents per barrel expired on July 31, 1918, and that after that date it will have to pay approximately \$1.91 per barrel for oil.

Applicant further alleges that it will have to meet increased labor prices, and because of these increases in its operating expenses it prays that the commission will so fix its rates that a reasonable return may be earned upon the value of its invested capital.

A public hearing was held before Examiner Westover at Modesto on July 24, 1918, at which time evidence was introduced relative to the rates, operation and growth of applicant company.

The existing rates charged by applicant are on file with the commission. These rates are of the sliding scale form, the first ten thousand cubic feet being sold at the rate of \$1.65 per thousand cubic feet, less a discount of 10 per cent, providing the bill is paid promptly.

A valuation of applicant's properties was made by Mr. W. J. Hammond, assistant engineer of the gas and electric department of the Railroad Commission, in April, 1916, in connection with Applications No. 2206 and No. 2207.

The results of this valuation with additions and betterments to date follow:

Reproduction new value, April 1, 1915 (excluding materials and supplies) .....	\$164,987 00
Additions and betterments to June, 30, 1918.....	20,347 00
Materials and supplies .....	6,437 00
<b>Total fixed capital June 30, 1918.....</b>	<b>\$191,771 00</b>

For the purposes of these proceedings we will include an item for working cash capital, making the total rate base \$196,000.00.

Upon the basis of the above valuations, applicant earned for return on investment and depreciation for the year 1917, exclusive of the profit made by the sale of crude oil, which may be considered aside from the gas business, approximately \$18,500.00, or 10.2 per cent upon its then rate base, or deducting depreciation about 8 per cent.

During the coming year, according to the evidence submitted, the increases in the cost of oil and labor will amount to the following:

Total oil used .....	9,793 barrels
Total increased cost per barrel .....	\$1 11
Total increased cost of oil .....	10,870 00
Increased cost of labor and supplies and taxes.....	2,430 00
<b>Total increase in expenses .....</b>	<b>\$13,300 00</b>

The increased cost of oil alone represents an increase in the cost of gas delivered of 29 cents per thousand cubic feet.

It is apparent that the above increase in the operating expenses will deplete the net operating expenses to a point where applicant will earn approximately 3 per cent for interest and depreciation, providing the existing rates were to remain in effect.

It is apparent from the testimony that a slight growth in business may be expected during the ensuing year, but this will be counteracted,



to a great extent, by the decrease in sales per consumer which may be expected to follow a material increase in rates.

In order to compensate applicant to the extent of its total increased expenses, the rates would have to be increased approximately \$0.352 per thousand cubic feet sold. However, applicant states that it is willing to bear a portion of the burden brought on by the war and believes that the entire burden should not be shifted to the consumer.

The rates established in the following order will net to applicant what might be considered a fair return, under present abnormal conditions, and will, in our opinion, fairly divide the burden of increases between the utility and its consumers.

Applicant has asked that a discount form of rate be established because of the present collection organization.

#### ORDER.

The Modesto Gas Company having applied to the Railroad Commission of the state of California for adjustment of gas rates, hearing having been held, the matter submitted and now ready for decision, the Railroad Commission finds as a fact that existing rates, under present conditions of cost and operation, are unjust and unreasonable in so far as they differ from the rates and charges herein established, and that rates set forth in this order are just and reasonable.

Basing its order on the foregoing findings of fact and upon the other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the Modesto Gas Company be and is hereby authorized to charge and collect the following rates for gas for all regular meter readings taken on and after August 26, 1918, to wit:

#### General Service.

		Gross	Net
First	500 cu. ft. or less per meter per month	\$1 10	\$1 00
Next	3,000 cu. ft. per meter per month	1 75	1 65 per M. cu. ft.
Next	3,500 cu. ft. per meter per month	1 60	1 50 per M. cu. ft.
Next	8,000 cu. ft. per meter per month		1 30 per M. cu. ft.
	All over 15,000 cu. ft. per meter per month		1 10 per M. cu. ft.

#### Restaurant Service.

First	30,000 cu. ft. or less per meter per month	\$1 00 per M. cu. ft.
All over 30,000 cu. ft. per meter per month		\$5 per M. cu. ft.
Minimum monthly bill, \$20.00.		

The net rate is effective if the bill is paid at the office of the company on or before the tenth of the month next succeeding that for which the bill is rendered, otherwise the gross rate is effective.

Provided that the Modesto Gas Company shall file with the Railroad Commission of the state of California on or before September 6, 1918, the rates herein established.

Dated at San Francisco, California, this twenty-sixth day of August, 1918.

## DECISION No. 5708.

IN THE MATTER OF THE APPLICATION OF NEEDLES GAS AND  
ELECTRIC COMPANY FOR AUTHORITY TO INCREASE GAS AND  
ELECTRIC RATES.

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Application No. 3782.

*Decided August 26, 1918.*

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*R. S. Masson*, for Applicant.

*Benjamin Harrison and C. H. Marks*, for city of Needles.

BY THE COMMISSION.

**OPINION.**

This is an application of Needles Gas and Electric Company requesting authority to increase its gas and electric rates to partially offset the increases in its operating expenses.

Hearings were held in Needles on June 26, 1918, in Los Angeles on July 7, 1918, before Examiner Encell, and in Needles on August 14, 1918, before Examiner Westover, the matter being submitted at the latter hearing.

Applicant operates a gas, electric and telephone system in the city of Needles, San Bernardino County. Applicant's electrical generating apparatus consists of three distillate-operated units of fifty, ninety-five and one hundred and forty horsepower capacity, respectively, and one 175 horsepower semi-Diesel unit. Its gas production equipment consists of two generators, one 6,000 cubic feet per hour, the other 3,000 cubic feet per hour capacity, and one 30,000 cubic foot holder.

In 1917 applicant served 507 electric consumers, who used during that time 207,900 kilowatt hours of electric energy, and served 425 gas consumers, selling to them 8,281,000 cubic feet of gas.

Applicant alleges in effect that due to the abnormal increases in the cost of fuel oil and labor, its cost for electric energy sold has increased by 1.83 cents per kilowatt hour, and the cost of gas sold has increased by 56 cents per thousand cubic feet. Applicant expresses a willingness to assume part of the burden thus created by present abnormal conditions, and asks authority to add to its present rates only surcharges of 1.5 cents per kilowatt hour for electric energy served, and 30 cents per thousand cubic feet for gas served, so that the form of the surcharge itself shall definitely advise consumers of the extent to which present conditions have modified their rates.

Applicant submitted at the hearing a detailed valuation of the properties originally acquired as of April 1, 1912, for which it paid

\$70,000.00. Additions and betterments to January 1, 1918, reported to have cost \$58,816.04, making a total stated investment as of January 1, 1918, of \$128,816.04. The above figures have been carefully checked by the commission's engineers, who report that \$128,816.04 may be considered a fair value for rate-making purposes in so far as the present application is concerned.

Applicant's revenue and expenses for the year 1917, as shown in its annual report to the commission, are as follows:

	Gas	Electric	Total
Gross revenue .....	\$13,921 15	\$27,473 04	\$41,394 15
Operating expenses* .....	10,647 83	18,425 20	29,073 03
Net operating revenue .....	\$3,273 32	\$9,047 80	\$12,321 12

The net operating revenue for 1917, before deducting a reasonable allowance for depreciation, amounted to a return of 9.57 per cent on the above investment of \$128,816.04, or slightly over 6 per cent after deducting depreciation.

Applicant uses three grades of oil in the production of electricity and gas, the cost of each delivered at Needles having increased during this year as shown below. A large part of the increased cost is represented by freight charges to Needles, which is not easily accessible from the California oil fields.

	Average, 1917	Per barrel Since May, 1918	Increase
Gas oil 18° Baumé .....	\$1 23	\$2 20	\$0 97
Semi-Diesel 28° Baumé .....	1 50	2 51	1 01
Distillate 38° Baumé .....	1 65	2 81	1 16

During 1917, oil for the generation of electricity cost applicant \$3,463.00, and for the manufacture of gas \$5,455.00, making a total oil cost of \$8,918.00.

Applicant testified that some reduction in sales would result from increased rates, but this would probably be offset by the normal growth in business experienced for the last two or three years. If the sales for 1918 be the same in amount as in 1917, and the present cost of labor and materials continues through the year 1918, applicant's operating expense will be increased by \$6,700.00 additional for oil, and \$2,300.00 additional for labor, or a total increase in operating expenses of \$9,000.00. The revenue from existing rates and the increased operating expenses as shown above would result in a net revenue for depreciation and return of only \$3,300.00, which is approximately 2 per cent upon the above stated investment.

\*Includes taxes and excludes depreciation.

An increase in applicant's gas and electric rates that would entirely offset its increased operating costs and allow a fair return upon the investment would, in all probability, decrease materially applicant's sales of gas and electric energy. Realizing this condition, applicant does not ask for rate increases which will entirely offset its increased operating costs.

1.5 cents per kilowatt hour for electricity,  
30 cents per thousand cubic feet for gas,

in addition to the rates now charged, will assess applicant's consumers with only a portion of the added costs of operation, and will not result in unduly high rates under present conditions, nor will applicant's increased revenue thus produced return to applicant as much net income as it has heretofore obtained from its gas and electric business.

#### ORDER.

The Needles Gas and Electric Company having applied to the Railroad Commission for authority to increase its gas and electric rates, public hearings having been held, the matter having been submitted and now ready for decision,

The Railroad Commission of the state of California hereby finds as a fact that applicant's rates and charges for gas and electricity increased by the surcharges set forth in this order are just and reasonable under existing conditions, and its existing rates without said surcharges are unjust and unreasonable.

Basing its order on the foregoing findings of fact and on each statement of fact contained in the opinion which precedes this order,

*It is hereby ordered* that Needles Gas and Electric Company be and is hereby authorized to charge and collect a surcharge of 30 cents per thousand cubic feet for gas sold and delivered, in addition to its rates and charges for gas now on file with the Railroad Commission, and to charge and collect a surcharge of 1.5 cents per kilowatt hour for electric energy sold and delivered, in addition to its rates and charges for electricity now on file with the Railroad Commission, on all regular meter readings taken on and after August 26, 1918, provided Needles Gas and Electric Company shall file within ten days of the date of this order amended schedules of gas and electric rates showing the surcharges herein authorized, and further provided Needles Gas and Electric Company shall indicate separately on the bills rendered its consumers of gas and electricity the surcharges herein authorized.

Dated at San Francisco, California, this twenty-sixth day of August, 1918.

## DECISION No. 5709.

IN THE MATTER OF THE APPLICATION OF TURLOCK GAS COMPANY  
FOR AUTHORITY TO INCREASE ITS RATES CHARGED FOR GAS.

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Application No. 3835.

*Decided August 26, 1918.*

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A. A. Caldwell, for Applicant.

BY THE COMMISSION.

**OPINION.**

This is the application of Turlock Gas Company for an increase in its rates for gas. Applicant operates an artificial gas plant from which it distributes gas to approximately 575 consumers in the town of Turlock.

Applicant alleges in effect that its contract, by which it secures oil at 77 cents per barrel, expires on September 1, 1918, and that after that date it will have to pay approximately \$2.00 per barrel for oil.

Applicant further alleges that under the present schedule of rates it will not be able to meet its operating expenses, and asks that the rates be adjusted as this commission may deem equitable.

A public hearing was held in this proceeding in Turlock on July 24, 1918, before Examiner Westover, at which time evidence was introduced and the matter was submitted.

The existing rates charged by applicant are as follows: \$1.75 per thousand cubic feet, with a discount of 25 cents per thousand cubic feet, for the first two thousand cubic feet, and 40 cents per thousand cubic feet for the next eight thousand cubic feet. For all consumption above 10,000 cubic feet per month there are discounts varying from 50 cents to 75 cents per thousand cubic feet, but from this point on, the rate is of the sliding scale form, the larger discount being effective for all gas consumed.

The above rates were filed with this commission by applicant, but their reasonableness has never been formally passed upon.

The physical value of the properties, as claimed by applicant as of January 1, 1918, is \$56,455.00. It has not been possible for the commission's gas and electric department to make a detailed valuation of these properties because of the large number of similar applications now before the commission, as a result of the increased cost of operation caused by the emergency war conditions. However, a sufficient investigation was made to show clearly that the value claimed by applicant is reasonable for rate-making purposes, and the same is being used in these proceedings. With the addition of \$2,052.00 for additions and

betterments to July 1, 1918, \$2,500.00 for materials and supplies, and \$2,830.00 for working cash capital, the total to be used as a rate base for these proceedings amounts to \$63,837.00.

The increase in the cost of oil and labor will, during the next year, effect an increase in operating expenses as follows:

Barrels of oil used, 1917.....	3,882	
Increased cost of oil per barrel.....	\$1.288	
Total increased cost of oil .....		\$4,787.00
Increased cost of labor, supplies and taxes.....		2,350.00
Total increased expenses .....		\$7,137.00

From the above it is apparent that providing applicant's sales and revenues remain approximately as in 1917, the increases in the cost of oil and labor will practically wipe out the net operating revenue.

Although a slight increase in the number of consumers may be expected in the future, it is probable that any benefit derived therefrom will be counteracted by a decrease in sales due to the higher rates which it will be necessary to charge. The increased cost of oil alone represents an increase of 37.0 cents per thousand cubic feet of gas sold.

Applicant does not ask that it be compensated for the entire amount of the increased expenses, believing that it should bear some of the burden brought about by the war.

We have, under the circumstances, fixed rates in the order which should net applicant approximately 6 per cent for return on the investment, and also an amount sufficient to meet its annual depreciation requirements.

#### ORDER.

Turlock Gas Company having applied to the Railroad Commission of the state of California for a revision of its gas rates, and a public hearing having been held and the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates charged by Turlock Gas Company for gas are unjust and unreasonable in so far as they differ from the rates and charges herein established, and that the rates and charges herein established are just and reasonable under the existing conditions.

Basing its order on the foregoing findings of fact, and on each statement of fact contained in the opinion preceding this order.

*It is hereby ordered* that Turlock Gas Company be and it is hereby authorized to charge and collect the following rates for artificial gas, provided said rates shall have been filed with the Railroad Commission on or before September 6, 1918. Such rates shall be applicable to all regular meter readings taken on and after August 26, 1918.

**General Schedule.**

		Gross	Net
First	500 cu. ft. or less per meter per month	\$1 10	\$1 00 per M. cu. ft.
Next	2,500 cu. ft. per meter per month	1 80	1 70 per M. cu. ft.
Next	4,000 cu. ft. per meter per month	1 65	1 55 per M. cu. ft.
Next	8,000 cu. ft. per meter per month	1 50	1 35 per M. cu. ft.
All over	15,000 cu. ft. per meter per month	1 35	1 15 per M. cu. ft.

The net rate is effective if the bill is paid at the office of the company on or before the tenth of the month next succeeding that for which the bill is rendered. If the bill is not paid on or before this date, the gross rate is effective.

Dated at San Francisco, California, this twenty-sixth day of August, 1918.

**DECISION No. 5710.**

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND  
TERMINAL RAILWAYS FOR AN ORDER AUTHORIZING THE DIS-  
POSITION OF PART OF ITS PROPERTY.

Application No. 3633.

*Decided August 26, 1918.*

BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

San Francisco-Oakland Terminal Railways filed on August 20, in Application No. 3633, a supplemental petition wherein it reports that none of the property described in Decision No. 5262, dated April 2, 1918, has been transferred for the reason that when applicant began to prepare quit-claim deeds the description of the property to be quit-claimed by it and the description of the property to be received by it was as to exact metes and bounds improperly described in the original application and correspondingly in the order of the commission; that applicant does not intend to exercise any authority granted by the commission in Decision No. 5262, dated April 2, 1918; that as set forth in the original application there is some confusion with reference to the boundary line between the property of applicant in the Alpine Tract situated in the city of Oakland, Alameda County, state of California, and the property of The Remar Company in the Alden Tract situated in the town of Emeryville, county of Alameda, state of California; that in order to make certain this boundary line applicant has agreed to transfer certain property to The Remar Company and The Remar Company has agreed to transfer certain property to applicant; that the property which applicant desires to transfer consists of the following:

"All those certain lots, pieces or parcels of land situate, lying and being in the City of Oakland and in the Town of Emeryville, County of Alameda, State of California, bounded and particularly described as follows, to wit:

Commencing at a point on the southeasterly line of Adeline Street, North  $16^{\circ} 21'$  E. Three hundred thirty and  $17/100$  (330.17) feet from its intersection with the northern line of 46th Street, as said Adeline Street and said 46th Street are shown upon that certain map entitled "Map of the Alden Tract" etc. hereinafter referred to; thence South  $53^{\circ} 17' 30''$  East One hundred eighty-six and  $88/100$  (186.88) feet to the intersection of the northern line of Alpine Street (now known as 52nd Street) and the center of Temescal Creek as shown on "Map of Alpine Tract" etc. hereinafter referred to; thence North  $80^{\circ} 24'$  East along the northerly line of 52nd Street Eight and  $18/100$  (8.18) feet to the boundary line of Lot 5 as per meander notes of Temescal Creek for the Alden Tract October 31st 1868; thence along said boundary line South  $2^{\circ} 30'$  East Ten and  $17/100$  (10.17) feet; thence South  $49^{\circ} 00'$  East One and  $90/100$  (1.90) feet to its intersection with the western line of Linden Street; thence South  $10^{\circ} 58'$  West along said line of Linden Street thirty-nine and  $56/100$  (39.56) feet to its intersection with the southern line of Lot 5 in Block 2115 of the Alden Tract; thence North  $79^{\circ} 02'$  West One hundred ninety-two and  $12/100$  (192.12) feet along the southern line of Lots 5 and 6 in said Block 2115 to the southeasterly line of Adeline Street; thence along said line of Adeline Street North  $16^{\circ} 21'$  East One hundred twenty-nine and  $28/100$  (129.28) feet to the point of commencement.

Being portions of Lots 5 and 6 in Block 2115 as said Lots and Block are laid down, delineated and so designated upon that certain map entitled "Map of the Alden Tract at Temescal" etc. filed Dec. 10th 1869, in the office of the County Recorder of said County of Alameda.

Also being a portion of Lot numbered 1 in Block lettered "B" as said Lot and Block are laid down, delineated and so designated upon that certain map entitled "Map of the Alpine Tract Oakland Township Alameda County California" etc. filed April 10th 1895 in the office of the County Recorder of said County of Alameda."

That the property which The Remar Company desires to transfer to applicant consists of the following:

"All these certain lots, pieces or parcels of land situate, lying and being in the City of Oakland, and in the Town of Emeryville, County of Alameda, State of California, bounded and particularly described as follows, to wit:

Commencing at a point on the southeasterly line of Adeline Street, North  $16^{\circ} 21'$  East Three hundred thirty and  $17/100$  (330.17) feet from its intersection with the northern line of 46th Street, as said Adeline Street and said 46th Street are shown upon that certain map entitled "Map of the Alden Tract" etc. hereinafter referred to; thence South  $53^{\circ} 17' 30''$  East One Hundred eighty-six and  $88/100$  (186.88) feet to the intersection of the northern line of Alpine Street (now known as 52nd Street) and the center of Temescal Creek as shown on "Map of the Alpine



Tract" etc. hereinafter referred to; thence North  $80^{\circ} 24'$  East along the northern line of 52nd Street Seventy (70) feet to the most southern corner of Lot No. 29 in Block lettered "B" of the Alpine Tract; thence North  $9^{\circ} 36'$  West along the western line of said Lot No. 29 and the western line of Lot No. 4 in said Block "B" One hundred eighty (180) feet to the northeastern corner of Lot No. 1 in said Block lettered "B"; thence South  $80^{\circ} 24'$  West along the northern line of said lot No. 1 One hundred seventy-seven and  $27/100$  (177.27) feet to the southeastern line of Adeline Street; thence South  $16^{\circ} 21'$  West along said line of Adeline Street Forty-nine and  $88/100$  (49.88) feet to the point of commencement.

Being a portion of Lot Number 1 in Block Lettered "B" as said lot and block are laid down, delineated and so designated on that certain map entitled "Map of the Alpine Tract Oakland Township Alameda County California" etc. filed April 10th, 1895, in the office of the County Recorder of said County of Alameda.

Also being a portion of Block 2115 as said block is laid down, delineated and so designated upon that certain map entitled "Map of the Alden Tract at Temescal" etc. filed Dec. 10th, 1869, in the office of the County Recorder of said County of Alameda."

And applicant having asked authority to make said exchange of property, and it appearing to the Railroad Commission that the supplemental application should be granted and that this is not a case in which a public hearing is necessary,

*It is hereby ordered* that the supplemental application herein be and the same is hereby granted, provided that the authority herein granted shall apply only to such transfers as are made on or before December 30, 1918; and provided, further, that applicant shall file with the commission within ten (10) days after the transfer of the properties herein authorized a copy of the quit-claim deeds referred to herein.

Dated at San Francisco, California, this twenty-sixth day of August, 1918.

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#### DECISION No. 5711.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY TO INCREASE ELECTRIC RATES.

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Application No. 3740.

*Decided August 26, 1918.*

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INCREASE IN ELECTRIC RATES. - Held that in increasing rates to provide for increased costs due to war emergency, a utility which under normal conditions does not enjoy commensurate return can not expect to have increased rates which would require consumers to bear any more of the increased costs than is necessary to re-establish the normal fair rate of earnings.

*Leo H. Susman*, for Applicant.

*Frank Sprague*, for Board of Trustees, town of Sonoma.

*C. H. Touch*, for Boyes Springs.  
*J. R. Leppo*, for town of Cloverdale.  
*F. E. Laumann*, for town of Fulton.  
*J. W. Given*, for Forestville Section.  
*L. Hillis*, for Gretton Church.  
*J. E. Grant*, for Russian River Gravel Company.  
*R. K. Emparan*, for Sonoma City Water Works.  
*L. E. Ridehour*, for certain farmers on Russian River.  
*C. W. Irwin*, for Pacific Union College Association.  
*H. Von Arx*, for city of Calistoga.

GORDON, *Commissioner*.

#### OPINION.

This is an application by California Telephone and Light Company for an order of the Railroad Commission authorizing it to increase all of its present rates for electricity by 30 per cent. Applicant urges this specific increase from a desire to raise its earnings to 8 per cent on capital invested in the property and at the same time to offset the increased cost of labor and material used in the operation of its property.

A hearing was held at Santa Rosa on June 14, 1918, at which time evidence was introduced and the matter submitted with the understanding that a further examination of applicant's affairs would be made by the commission's gas and electric department, and the results thereof considered in evidence. This being completed, the matter is now ready for decision.

The commission has but recently established the electric rates of applicant. After an exhaustive investigation, Decision No. 4433 in Application No. 2171 and Case No. 917, fixed just and reasonable electric rates for applicant which became effective August 1, 1917.

By stipulation all of the evidence introduced in these prior proceedings is made a part of the record herein.

In connection with Application No. 2171 and Case No. 917 above, the commission's investigation of applicant's electric business showed that it was earning a net return of about  $4\frac{1}{2}$  per cent on its investment in electric properties, and the commission, in its order, stated that due to the scattered community served, to the development stage of the property and to the prevailing rates in adjoining territories that it was not possible for applicant to earn a higher return than the above figure. This viewpoint was agreed to by applicant's management, and the following paragraph, quoted from Decision No. 4433, indicates sub-

stantially the difficulties of fixing rates that would yield applicant a higher return:

"If the applicant's electric rates in this instance were to be fixed on such basis as to yield the company theoretically an adequate return comparable with larger utilities, after the payment of all necessary operating expenses and depreciation, such a rate would be prohibitive to the consumers and would affect a material decrease in the company's business."

Applicant now comes before the commission asking a rate increase that will produce a return materially beyond what its own experience indicates as attainable, and substantially greater than applicant would have earned in normal times. It is true that applicant's operating expenses have been affected by the increased cost of materials, and the wages paid to employees have followed the rising scale of the labor market. To this extent the earnings of applicant have been reduced to less than the earnings which it would have enjoyed had normal conditions continued. In many of the recent decisions we have recognized these emergency conditions, but we have stated clearly that a utility, which under normal conditions did not enjoy a commensurate return, can not expect to have its return under present abnormal conditions raised to a point where its consumers would be required to bear any more of the increased costs than shall be found necessary to re-establish the normal fair rate of earnings.

Applicant's electric business is entirely that of a distributing company. All of its energy sold is purchased from other larger generating and transmission systems. Only in a limited sense is its service necessary to essential war industries.

The following table shows the capital, revenue, operating expenses and net income of applicant's electric business for several years past:

	1914	1915	1916	1917	Estimated on basis of 1918 rates at existing rates
Average capital .....	\$365,000 00	\$405,700 00	\$425,000 00	\$445,000 00	\$469,000 00
Gross revenue .....	\$69,819 47	\$79,335 68	\$78,962 47	\$87,470 65	\$100,000 00
Operating expenses ....	\$37,061 75	\$41,921 41	\$43,691 57	\$51,125 08	\$63,700 00
Uncollectible bills .....	530 00	469 89	1,515 00	538 98	700 00
Net operating revenue ..	\$32,227 72	\$36,944 38	\$33,755 90	\$35,806 59	\$35,590 00
Depreciation .....	12,800 00	14,200 00	15,000 00	15,000 00	16,100 00
Net income .....	\$19,427 72	\$22,744 38	\$18,755 90	\$20,806 59	\$19,490 00
Return on capital .....	5.37%	5.59%	4.42%	4.69%	4.16%

The rates fixed by Decision No. 1432 have been in effect since August 1, 1917. Applicant set forth in an exhibit the revenue and expense for the first seven months' operations under these new rates and the commission's gas and electric department has compiled applicant's revenue and expense for the succeeding three months from its books and records. On the basis of these ten months' operations, and from a consideration of the probable increases in operating costs, due to increases in the cost of labor, supplies and purchased power, the figures above set forth have been deduced as a reasonable estimate of the revenue and expenses for the year 1918. Consideration has been given to the increased cost of power purchased for the entire year, resulting from the increase in the wholesale power rate charged by the Pacific Gas and Electric Company as authorized in this commission's Decision No. 5519, and to the normal growth of applicant's business. The above figures may, therefore, be more properly described as statements of the probable revenue for 1918 under present rates, and the probable expenses, taking into account all the increases in costs which will be effective for the ensuing year applied to the 1918 operations. From this analysis it appears that applicant's net return for 1918 will be practically equal to the earnings derived during preceding years of normal operation.

The operating expenses of applicant will be increased by approximately \$4,500.00 per annum, however, in excess of the normal, and had normal conditions continued, the company's net earnings would have increased by approximately that amount. The investigation of the commission's engineers shows that applicant is not maintaining its property to the extent necessary to give continued good service. Further expenditures are necessary to insure the upkeep of the properties and the safety of operation. For this purpose additional revenue should be allowed applicant to cover more extensive repair.

Applicant is required to make only the ordinary extensions to its distributing system to care for the normal growth of the business, and does not require additional capital for an increase of generating facilities, such requirements being cared for by the larger utilities which supply energy sold by it. Applicant has been able to finance its normal extension requirements in the past in spite of its low earnings, and I am of the opinion that if the commission in this instance so modifies applicant's rates as to allow it sufficient to meet its increased costs and to more satisfactorily maintain its system, that both applicant and its consumers will be reasonably benefited thereby.

I am of the opinion that the electric rates of California Telephone and Light Company should be increased to the extent indicated above, by means of surcharges to be added to its existing rates. The surcharges set forth in the order herein will result in an increase of

approximately \$8,500.00 per annum in applicant's gross revenue, and will provide applicant with sufficient funds to compensate for the increased costs of operation and to further allow sufficient funds for the more adequate maintenance of its properties and the improvement of the service, without in any way impairing the return heretofore received by applicant under normal conditions.

I submit the following form of order:

**ORDER.**

California Telephone and Light Company having applied to this commission for an increase of rates, a hearing having been held and the matter being submitted and now ready for decision, the Railroad Commission of the state of California hereby finds as a fact that the electric rates of California Telephone and Light Company are unjust and unreasonable in so far as they do not provide applicant with a sufficient return under present conditions and in so far as they differ from the rates and charges hereinafter fixed, and basing its order on the foregoing findings of fact and on the findings of fact contained in the opinion which precedes this order.

*It is hereby ordered* that California Telephone and Light Company be and is hereby authorized to charge and collect for electric energy sold, based on all regular meter readings taken on and after the first day of September, 1918, in addition to its regularly filed schedules of rates, the following temporary surcharges, to wit:

For energy sold for lighting service, exclusive of municipal street lighting, 1 cent per kilowatt hour.

For energy sold for power service, including heating, cooking, etc., 2 mills per kilowatt hour.

Provided California Telephone and Light Company shall, within ten days of the date of this order, file with the Railroad Commission a statement of the surcharges herein authorized as an amendment to its rate schedules, and further provided California Telephone and Light Company shall indicate on the bills rendered its electric consumers the amount of the surcharges herein authorized.

*It is further ordered* that California Telephone and Light Company shall, on or before the twentieth day of each month, file such statements of its revenues, expenses, capital expenditures, etc., for the preceding month and such other periods as the commission may hereafter designate.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of August, 1918.

## DECISION No. 5716.

SOUTHERN PACIFIC COMPANY, A CORPORATION, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION, NORTHWESTERN PACIFIC RAILROAD COMPANY, A CORPORATION, AND CALIFORNIA WESTERN RAILROAD AND NAVIGATION COMPANY, A CORPORATION.

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Case No. 1080.

*Decided August 26, 1918.*

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BY THE COMMISSION.

**OPINION ON PETITION FOR REHEARING.**

Complaint was filed before this commission by Navarro Lumber Company reciting that the rates given to the mills located along the lines of the Northwestern Pacific Railroad and the California Western Railroad and Navigation Company by the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company were discriminatory and preferential for the transportation of lumber to points in California as against the interests of this complainant.

The complaint also alleges that the rates given by defendants to mills located on the lines of the Northwestern Pacific Railroad and the California Western Railroad and Navigation Company are preferential to such mills and unduly prejudicial to the interests of the complainant.

Thereafter the case was called for hearing and was partially heard, the complainant putting in its testimony in support of its complaint. Thereupon the defendants moved to dismiss the complaint upon the ground that no cause of action, of which the commission had jurisdiction, had been stated, and thereafter the commission did, on March 2, 1918, dismiss said complaint for the reason that no cause of action had been stated.

Thereafter complainant filed the present application praying that the dismissal be set aside, which matter is now before the commission.

After again reviewing the entire proceeding we have concluded that while our dismissal on the ground that no cause of action was stated was correct and proper as to that portion of the complaint referring to the movement of lumber from Navarro and the request for publication of through routes and joint rates for the transportation of lumber from the mills of complainant located at Navarro, we are of the opinion that the complaint should not have been dismissed in its entirety, as the joint all-rail rates from points located on the rails of the Northwestern Pacific Railway and the California Western Railroad and Navigation Company are alleged to be preferential and prejudicial to the complainant in this proceeding.

Since this complaint was filed, the management and control of these defendant railroads have been taken over by the national government and complainant advises that it will accordingly institute an entirely new proceeding covering this matter with the Interstate Commerce Commission.

There is, therefore, no occasion to proceed further in the present case. The petition for rehearing will accordingly be denied, but we believe also that the order of dismissal heretofore made should be amended so that the proceeding is dismissed without prejudice.

**ORDER.**

In accordance with the foregoing opinion, the petition of complainant for a rehearing filed herein on May 22, 1918, is hereby denied and the order of dismissal made herein on May 2, 1918, amended by adding the words "without prejudice."

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of August, 1918.

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DECISION No. 5726.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO MAKE, EXECUTE AND DELIVER A TRUST DEED TO SECURE A BONDED INDEBTEDNESS AND TO ISSUE, SELL AND DELIVER TEN MILLION DOLLARS OF ITS BONDS UNDER SAID TRUST DEED.

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Application No. 3032.

*Decided August 26, 1918.*

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BY THE COMMISSION.

**FOURTEENTH SUPPLEMENTAL ORDER.**

Southern California Edison Company having filed with the Railroad Commission a statement showing that it has expended for construction purposes during the month of July, 1918, the sum of \$127,059.76, and it appearing that the sum so expended was for proper capital purposes and that applicant is entitled to expend \$95,294.82 of the \$3,000,000.00 referred to in subdivision "a" of condition "3" of the order in Decision No. 4468, dated July 19, 1917, to finance in part said construction expenditures; now, therefore,

*It is hereby ordered* that Southern California Edison Company be and it is hereby authorized to use \$95,294.82 of the \$3,000,000.00 referred to in subdivision "a" of condition "3" of the order in Decision No. 4468, dated July 19, 1917, to pay in part for its construction expenditures during the month of July, 1918.

Dated at San Francisco, California, this twenty-sixth day of August, 1918.

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DECISION No. 5727.

IN THE MATTER OF THE APPLICATION OF FRESNO TRACTION COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES.

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Application No. 3806.

*Decided August 26, 1918.*

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**STREET RAILWAY FARES.**—Applicant granted permission, because of abnormal conditions due to the war, to increase its city fares to six cents, and to add 10 per cent for commutation fares.

*Everts & Ewing*, for Petitioner.

GORDON, *Commissioner*.

**OPINION.**

This is an application of the Fresno Traction Company for authority to increase its urban and suburban passenger fares upon the allegation that existing fares are insufficient to meet fixed charges and operating expenses. The commission is asked to prescribe such fares as will return adequate revenue. Applicant does not seek any return upon the property devoted to the service, but does ask that it be permitted to earn sufficient revenue to liquidate fixed charges and operating expenses.

A witness for the company suggested that its five-cent fares be increased to seven cents and that five-ride tickets, good for passage within the five cent zone, be sold for thirty cents. In justification of the increased fares applicant shows that the cost of materials and supplies are constantly mounting, that wages of employees were increased during calendar year 1917 and that a further increase is contemplated during the present year.

Notice of the hearing, which was held in the city of Fresno, July 8, 1918, was given wide publicity in the local press and interested parties and commercial organizations officially advised. Notwithstanding such intelligence no one appeared in opposition, though the records show that certain patrons of carrier were inclined to the belief that the poor financial showing is attributable to inadequate service.



The Fresno Traction Company was incorporated September 22, 1903, under the laws of the state of California and was capitalized at \$5,000,000.00. The funded debt at the close of the year 1917 totalled \$709,000.00 and the open book accounts with affiliated companies amounted to \$829,437.60.

Annual reports on file with the commission, beginning with the fiscal year ending June 30, 1911, and closing with June 30, 1916, show a deficit each year ranging from \$9,628.47 in 1913 to \$41,282.85 in 1916. The deficits for the calendar years 1916 and 1917 were \$47,792.24 and \$59,702.06, respectively. Thus it will be seen that at no time during this period has applicant been able to meet its operating expenses, taxes and interest on funded and unfunded debts.

The following condensed statement portrays carrier's financial condition for the fiscal years ending June 30, 1914, 1915 and 1916 and the calendar years 1916 and 1917:

Statement Showing Income Account for the Fiscal Years Ending June 30, 1914, 1915 and 1916, Calendar Years Ending December 31, 1916 and 1917; Also the Increase, Amount and Percentage, Calendar Year 1917 Over the Year 1916.

Accounts	Fiscal year ending June 30,				Calendar year			Increase calendar year 1917 over 1916	
	1914	1915	1916	1916	1916	1917	1917	Amount	Per cent
Operating revenue:									
Transportation, passenger revenue	\$233,984 40	\$228,845 25	\$223,477 85	\$223,063 45	\$223,725 84				
Transportation other than passen- ger revenue	3,858 50	1,061 70	2,382 60	1,125 56	1,127 40				
Other operations	3,129 80	1,423 79	1,524 00	1,260 00	1,786 47				
Total operating revenue	\$240,972 70	\$231,330 74	\$227,384 45	\$225,517 65	\$225,639 71			\$10,122 06	4 49
Operating expenses:									
Way and structures	\$1,323 01	\$10,466 24	\$12,673 76	\$11,067 01	\$10,800 27				
Equipment	24,967 96	24,231 59	20,177 82	19,826 52	27,230 44				
Power	33,131 67	32,231 59	28,537 09	26,938 01	30,945 67				
Conducting transportation	87,836 46	87,613 62	86,143 85	80,540 95	92,479 37				
Traffic	246 95	3,996 30	2,976 44	2,763 98	4,283 71				
General and miscellaneous	19,437 32	22,629 10	16,233 25	17,739 37	23,246 32				
Transportation		121 62			148 26				
Total operating expenses	\$164,297 37	\$181,143 22	\$166,742 21	\$171,965 81	\$188,937 42			\$18,031 58	10 55
Net operating revenue	\$76,675 33	\$50,187 52	\$60,642 24	\$51,611 81	\$46,702 29			\$87,909 52	211 48
Taxes	11,871 78	12,562 96	14,130 20	13,744 54	14,688 10			943 56	6 86
Operating income	\$64,803 55	\$37,624 56	\$46,512 04	\$40,867 27	\$32,014 19			\$88,853 08	21 06
Nonoperating income		18,957 89	11,289 47	11,661 75	11,665 91			4 16	.04
Gross income	\$64,803 55	\$56,582 45	\$57,801 21	\$52,529 02	\$43,680 10			\$88,848 92	16 85
Deductions from gross income:									
Interest on funded debt	\$37,333 33	\$36,459 17	\$36,100 00	\$35,975 00	\$35,689 30				
Interest on unfunded debt	23,494 83	37,661 65	43,196 24	44,500 41	47,837 70				
Amortization of discount on funded debt	3,034 80	3,034 80	3,034 80	3,034 80	3,034 80				
Other deductions	16,867 59	16,773 40	16,763 02	16,751 65	16,810 36				
Total deductions	\$80,730 55	\$83,932 02	\$89,094 06	\$100,321 26	\$103,382 16			\$3,000 90	3 05
Income balance	\$15,927 00	\$37,349 57	\$81,282 85	\$87,792 21	\$89,702 06			\$11,900 82	24 92

<sup>1</sup>Credit. <sup>2</sup>Debit.

It will be noted the deficit for 1916 was \$47,792.24 and was augmented \$11,909.82, or 24.92 per cent, in 1917. The net operating revenue for 1917 dropped \$7,909.52, or 14.48 per cent, notwithstanding the passenger revenue increased 4.49 per cent, this due to the fact that the operating expenses increased \$18,031.58, or 10.55 per cent. It will be further noted that individual accounts of operating expenses, except "Way and Structures" show substantial increases.

Attention is further directed to the fact that the passenger revenue for the calendar year 1917 is \$5,332.99 less than in 1914, operating expenses \$24,640.05 greater, and that the deficit in 1917 was \$43,775.06 greater than in 1914, or 275 per cent.

According to petitioner's testimony, the cost of materials and supplies for the year 1918 will be greatly in excess of prices obtaining in 1917. Assuming operating expenses increase \$10,000.00 and operating revenue remains constant, the deficit at the close of this year will be approximately \$70,000.00 and will be further enhanced about \$15,000.00 by the raising of wages to conform to Director General McAdoo's General Order No. 27, thus making a total estimated deficit of \$85,000.00 at the close of the year 1918. The proposed wage increase is necessary to offset the higher cost of living due to abnormal conditions resulting from the war, and by reason of the scarcity of labor at this time the increase is obviously essential as an inducement to retain experienced employees.

Carrier's revenue is largely derived from the urban traffic at a five cent fare. To outlying points the one-way fare ranges from ten cents to thirty cents, with round trip fifty cents; family commutation thirty rides from \$2.00 to \$6.00; individual commutation tickets, forty-six and sixty rides, from \$3.00 to \$7.00 for the former and from \$4.00 to \$9.00 for the latter.

The following statement shows number of five cent passengers carried for the periods specified:

First four months, year 1917.....	1,489,984
Second four months, year 1917.....	1,414,170
Last four months, year 1917.....	1,716,649
Total .....	4,620,803
Average for four periods.....	1,540,268
First four months, year 1918.....	1,596,910

The number of five cent revenue passengers carried during the first four months of year 1917 was 1,489,984 and for the corresponding period 1918, 1,596,910, an increase of 106,926, or 7.2 per cent; for the second four months of 1917 there were 182,740 less passengers than during the first four months in 1918. However, it is fair to assume

petitioner's revenue at existing fares will be increased at least 10 per cent, particularly in view of the fact that this class of traffic during the last four months of 1917 was 226,665, or 15.2 per cent greater than the number carried the first four months; and in the first four months of 1918 exceeded the average for four months of 1917 by 50,284, or 3.37 per cent.

From the facts developed it is manifest petitioner should be accorded relief, for it is patent that unless fares are increased the standard of service must be greatly curtailed if a receivership of the property is to be avoided. Of these alternatives the public, in my judgment, would favor the first-mentioned plan—increase in rates—rather than a radical reduction in the service rendered. As heretofore stated, the relief sought does not rest upon any demands for returns upon invested capital, but only for sufficient revenue to meet operating expenses and fixed charges. This situation represents a war necessity and any added revenue obtained from the increasing of rates will be absorbed in increased compensation positively necessary to employees and for purchase of materials.

I find as a fact that the present rates are not just, reasonable or sufficient under existing conditions, and recommend applicant be authorized to increase its five cent fare to six cents and its commutation fares by 10 per cent. This schedule of rates will not produce sufficient additional revenue to meet the estimated deficit of \$85,000.00 for the calendar year 1918, but in my opinion rates on a higher basis, considering the short hauls involved, would result in reduction in net revenue rather than in an increase.

I submit the following form of order:

#### ORDER.

A public hearing having been held in the above-entitled proceeding and the matter having been submitted and the commission being fully informed and basing its order on the findings of fact as set forth in the opinion which precedes this order,

*It is hereby ordered* that the Fresno Traction Company be and is hereby authorized to increase its five (5) cent fares to six (6) cents and its commutation fares ten (10) per cent.

*It is further ordered* that schedules containing the increased fares be filed with this commission within twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of August 1918.

## DECISION No. 5728

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE RENEWAL OF ITS EXISTING PROMISSORY NOTES IN THE PRINCIPAL SUM OF \$83,261.58 AND THE PLEDGING OF ITS FIRST MORTGAGE BONDS TO SECURE THE SAME.

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Application No. 3870.

*Decided August 29, 1918.*

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*E. Swift Torrance*, for Applicant.

LOVELAND, *Commissioner*.

**OPINION.**

In this application Los Angeles and San Diego Beach Railway Company asks authority to issue notes in renewal of notes now outstanding and to issue and pledge bonds to secure the payment of the notes.

Applicant reports \$83,261.58 of notes outstanding. The payment of \$49,393.03 of these notes is secured by the deposit of \$68,500.00 of applicant's first mortgage  $5\frac{1}{2}$  per cent bonds. Applicant asks authority to secure the payment of all the notes which it now desires to issue for the purpose of renewing notes outstanding by first mortgage bonds in the ratio of \$100.00 face value of bonds to \$70.00 face value of notes.

Since the filing of this application, Los Angeles and San Diego Beach Railway Company filed Application No. 3984 for an order authorizing a reduction in the number of trains operating daily between San Diego and La Jolla. In view of the testimony submitted in Application No. 3984, granted by Decision No. 5697, dated August 24, 1918, I am unable to recommend the granting of this application and suggest that it be denied without prejudice. If conditions change, applicant may again bring this matter before the commission.

I herewith submit the following form of order:

**ORDER.**

Los Angeles and San Diego Beach Railway Company having applied to the Railroad Commission for authority to issue notes and pledge bonds and a hearing having been held and it appearing to the Railroad Commission that this application should be denied without prejudice,

*It is hereby ordered* that the application in the above-entitled matter be and the same is hereby denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-ninth day of August, 1918.

## DECISION No. 5729.

IN THE MATTER OF THE APPLICATION OF MOUNT WHITNEY POWER  
AND ELECTRIC COMPANY FOR AUTHORITY TO INCREASE ITS  
ELECTRIC RATES.

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Application No. 3891.

*Decided August 29, 1918.*

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ELECTRIC RATES—SURCHARGE INCREASE.—Applicant granted increase in electric rates upon proof that abnormal cost of operation requires more revenue; increase to be a surcharge of 10 per cent.

*Harry J. Bauer*, for Applicant.

*Frank Lamberson*, district attorney of Tulare County, for Tulare County.

*Power & McFadzean*, for Visalia Electric Railway Company.

*William Burchett*, for city of Delano.

*E. C. Eaton*, for city of Lindsay.

*Guy Knapp*, city attorney of Porterville, for city of Porterville.

*Middlecoff & Fecmster*, for Tulare County Power Users Association.

*J. A. Hinman*, for Board of Supervisors of Kern County.

*J. H. Althouse*, for Terra Bella Irrigation District.

*Frank Gianini*, *in propria persona*.

*J. W. Catc*, for users of Earlimart and vicinity.

GORDON, *Commissioner*.

## OPINION.

Mount Whitney Power and Electric Company asks authority to increase its rates for electric energy by reason of increased operating expenses, due to increased labor and material costs, shortage of water for generation of hydroelectric energy and the increased cost due to large amount of purchased energy required.

Applicant requests a definite increase of rates amounting to a surcharge of 10 per cent on each and every bill for electric service until otherwise ordered by the commission.

The rates of applicant were fixed by this commission in its Decision No. 3242 in Application No. 1673, issued April 6, 1916 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 9, page 628).

The rates so fixed or as later slightly amended are on file with the commission and were, at the time of the decision, determined to be just and reasonable under conditions then existing. These rates are in all practical respects identical with those fixed at the same time on the San Joaquin Light and Power Corporation's system in surrounding territory for similar service. The increase herein requested by applicant is the same as this commission authorized San Joaquin Light and

Power Corporation to charge, as set forth in Decision No. 5449, issued the twenty-eighth day of May, 1918, and which is now being charged on that system.

The commission, in the above referred to application, after thorough investigation of the evidence, found that the San Joaquin Light and Power Corporation would probably earn not to exceed 7 per cent on its reasonable investment and that it was necessary that a greater return be obtained in order that the company might meet the large demands for electric power made upon it and adequately serve the public. The commission fixed the surcharge on a basis to net 8 per cent return on the rate base.

The electric service supplied by applicant is largely used for pumping water for irrigation, and the continuance and extension of this service is absolutely essential to the production of food so necessary at this time.

The evidence shows that applicant expended during 1917 over \$300,000.00 in the extension and enlargement of its system to more adequately serve the territory, and that practically all of this was for extensions to serve necessary agricultural plants. The expenditures required in 1918 will equal or exceed this amount. Over 6,000 horsepower more of power motors, mostly for pumping water, will operate in 1918 than in 1917 on applicant's system.

The evidence introduced in this application shows conclusively that applicant's net earnings are low. Exhibit No. 3 of applicant herein shows the following for the years 1916, 1917 and 1918 based on present rates:

	1916 (Actual)	1917 (Actual)	1917 (Estimated)
Gross receipts -----	\$760,855 00	\$805,537 00	\$1,055,000 00
Operating expense -----	340,835 00	492,856 00	705,000 00
Net from operation -----	\$420,020 00	\$312,681 00	\$350,000 00
Net nonoperating revenue -----	13,075 00	6,038 00	12,000 00
Total for fixed charges -----	\$433,095 00	\$318,719 00	\$362,000 00
Depreciation -----	85,830 00	96,144 00	104,000 00
Balance for return on investment -----	\$317,265 00	\$222,575 00	\$258,000 00
Investment -----	4,464,351 00	4,918,130 00	5,313,000 00
Rate of return -----	7.77%	4.52%	4.85%

The above estimate appears from analysis of the evidence to be practically correct. The greatly increased cost of operation is due primarily to the greatly increased amount of electrical energy purchased.

The addition of the 10 per cent surcharge requested would in 6 months increase the net return upon the investment to 5.8 per cent, and if

effective for a full year, would result in an estimated net return of 6.61 per cent upon the total capital invested.

Considering the rate of interest which public utilities are required to pay to obtain money for extensions and betterments at this time it is very apparent that it would be unfair not only to the utility but detrimental to the development of territory served by applicant not to grant the relief requested, for it is obvious the food production of the district would be curtailed and the prosperity of the territory as a whole decreased.

Applicant has applied for authority to purchase the H. G. Lacey Company, operating an electric distribution system serving the city of Hanford and contiguous territory (App. 3890). Hearing in that application was held at Visalia in conjunction with this application and it was stipulated the evidence in either should be considered in so far as relevant in the other.

Mount Whitney Company requests that the 10 per cent surcharge applied for be applied to the H. G. Lacey Company's system, which, if authority be granted for the purchase, would become part of the applicant's property. With a few exceptions the rates of the Lacey company are the same as the rates existing on the Mount Whitney Power and Electric Company's system.

There is at present pending before this commission Case No. 1232, involving the rates and service on the H. G. Lacey Company's system. I believe that the decision on the rates of the Mount Whitney Power and Electric Company should not be held up pending decision on the application of Mount Whitney Company to purchase the H. G. Lacey Company or hearing in the rate case now pending, and I therefore recommend that the order herein be issued and that the question of rates in Hanford be not decided at this time.

#### **ORDER.**

Mount Whitney Power and Electric Company having filed herein its petition asking authority to increase its rates charged for electric energy by the addition of a temporary surcharge of 10 per cent on all bills, a public hearing having been held, this proceeding having been submitted and being now ready for decision,

The Railroad Commission hereby finds as a fact that the existing rates for electric energy sold by Mount Whitney Power and Electric Company are, under existing conditions, unjust and unreasonable and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing findings of fact and the other findings of fact contained in the opinion which precedes this order,

The Railroad Commission hereby authorizes Mount Whitney Power and Electric Company to charge and collect a temporary surcharge of



ten (10) per cent on each and every bill for electric service rendered from its existing system or extensions made thereto, effective for all bills rendered on meter readings taken on and after September 15, 1918, where metered service is rendered, and effective for all flat rate service rendered on and after September 1, 1918, on the following conditions:

(1) This order shall not be construed as disturbing the structure of rates established by this commission in Decision No. 3242, to be charged by Mount Whitney Power and Electric Company; but said corporation, in addition to showing on its bills for electric energy the amount due under the rates heretofore established by this commission in said decision, shall also show separately the surcharge herein authorized, together with a note referring to said surcharge, in substantially the following language:

“Additional charge to cover present increased cost of operation—  
10 per cent.”

(2) On or before the twentieth day of each month, Mount Whitney Power and Electric Company shall file with the Railroad Commission herein, reports in such form as may be described by the commission, showing the results of its operations from its electric business during the preceding month and during the period from January 1, 1918, to the last day of said preceding month.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-ninth day of August, 1918.

## SUPPLEMENTARY ORDERS AND MISCELLANEOUS.

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## SUPPLEMENTARY ORDERS AND MISCELLANEOUS.

Dec. No.	Application No.	Applicant	Action	Date
5031	3324, 3325	Board of Supervisors Los Angeles County	Condition No. 2 of Decision No. 4949 amended to continue service of water	Jan. 11, 1918
5043	2932	River Bend Gas and Water Co.	Stipulation filed covering cost of franchise	Jan. 15, 1918
5045	2937	Oroville and Nelson Railroad Co.	Decision No. 4733 amended to permit Southern Pacific Railroad Co. to write off to profit and loss \$12,322.23	Jan. 17, 1918
5046	2939	Mojave and Bakersfield Railroad Co.	Decision No. 4733 amended to permit Southern Pacific Railroad Co. to write off to profit and loss \$5,961.40	Jan. 17, 1918
5047	2944	Lincoln Northern Railway Co.	Decision No. 4732 amended to permit Central Pacific Railway Co. to write off to profit and loss \$18,725.80	Jan. 17, 1918
5050	2948	Colusa and Hamilton Railroad Co.	Decision No. 4731 amended to permit Southern Pacific Railroad Co. to write off to profit and loss \$92,123.92	Jan. 17, 1918
5051	2958	Pacific Telephone and Telegraph Co.	Stipulation filed covering cost of franchise	Jan. 18, 1918
5061	CS, 1141	Producers Hay Co. vs. Carl Anderson et al.	Order denying petition for rehearing	Jan. 21, 1918
5077	3032	Southern California Edison Co.	Grant of permission to expend \$242,888.82 to pay in part for construction expenditures	Jan. 28, 1918
5088	CS, 1163	Valley Ice Co. vs. County of Fresno et al.	Approval of plan to improve crossing	Jan. 31, 1918
5101	3116	San Diego Consolidated Gas and Electric Co.	Stipulation filed covering cost of franchise	Feb. 4, 1918
5105	2973	Death Valley Railroad Co.	Grant of permission to sell 341 shares of stock to retire certain bonds	Feb. 5, 1918
5110	2753	Dean H. Bakeman	Previous order Decision No. 4273 vacated and set aside	Feb. 29, 1918
5128	3032	Southern California Edison Co.	Grant of permission to expend \$50,395.81 from bond issue to pay in part for construction expenditures	Feb. 15, 1918
5132	2216	Imperial Telephone Co.	Stipulation filed by Pacific Telephone and Telegraph Co. that it will not claim any value for franchises assigned to it	Feb. 18, 1918
5135	2337	Pacific Telephone and Telegraph Co.	Approval to book entries covering acquisition of Imperial Telephone Co.	Feb. 18, 1918
5140	2239	A. T. Smith	Stipulation filed declaring no value will be claimed for certain rights and privileges	Feb. 18, 1918
5144	2701	Jesse S. Harker et al.	Decision No. 4037 vacated and set aside	Feb. 19, 1918
5153	2935	Calistoga Electric Co. and California Telephone and Light Co.	Condition "B" of Decision No. 3931 amended to require the proceeds from sale of bonds to be used for payment of a certain note and balance to reimburse its treasury	Feb. 20, 1918
5159	2733	Sierra and San Francisco Power Co.	Grant of permission to use \$34,085.05 of the proceeds from sale of bonds to reimburse its treasury	Feb. 25, 1918
5183	3310	Southern Counties Gas Co.	Approval of stipulation filed in accordance with condition No. 2 of Decision No. 4918	Mar. 6, 1918

SUPPLEMENTARY ORDERS AND MISCELLANEOUS—Continued.

Dec. No.	Application No.	Applicant	Action	Date
5163	3328	San Diego and Arizona Railway Co.	San Diego and Arizona Railway Company authorized to take over and operate properties of Southeastern Railway Co.; the consideration of \$1,500,000 to be carried on books of Arizona Company with interest at 6 per cent per annum until bonds are issued in settlement of indebtedness.	Mar. 11, 1918
5194	2930	Hemet-San Jacinto Gas Co.	Stipulation filed covering cost of franchises.	Mar. 11, 1918
5199	2915, 137	Oakland, Antioch and Eastern Railway.	Condition No. 1 of Decision No. 4623 amended to make notes authorized to be issued payable on September 6, 1918.	Mar. 12, 1918
5201	3294	San Diego Consolidated Gas and Electric Co.	Schedules A and C of Decision No. 5158 amended.	Mar. 13, 1918
5212	3662	Southern California Edison Co.	Grant of permission to use \$117,154.74 of proceeds from sale of bonds to pay in part for construction expenditures.	Mar. 16, 1918
5213	3314	Redley Telephone Co.	Extension of time granted to comply with Chapter 499, Laws of 1911, as amended by Chapter 690, Laws of 1915.	Mar. 18, 1918
5217	1591	Pacific Gas and Electric Co.	Condition No. 1 of Decision No. 3923 amended to allow sale of first preferred stock at \$82.50 instead of \$80 on account of war conditions.	Mar. 22, 1918
5215	3386	William F. Fowler.	Time extended from ten to twenty days within which applicants for water may notify utility of acceptance of assignment in cases where applications have not been granted in full.	Mar. 22, 1918
5229	3274	Western States Gas and Electric Co.	Permission granted to use \$17,500 of proceeds from sale of preferred stock to pay a note due.	Mar. 25, 1918
5237	3591	Southern California Edison Co.	Stipulation filed covering cost of franchise.	Mar. 27, 1918
5239	3535	Pacific Electric Railway Co.	Granted permission to abandon a certain spur track.	Mar. 27, 1918
5240	3435	Pacific Electric Railway Co.	Extension of time granted to comply with Chapter 499, Laws of 1911, as amended by Chapter 690, Laws of 1915.	Mar. 27, 1918
5243	2426	Corona Home Telephone and Telegraph Co.	Stipulation filed covering cost of franchise.	Mar. 27, 1918
5245	2732	Southern Counties Gas Co. of California.	Order of February 25, 1918, amended to provide that rates shall apply to meter readings after March 18, 1918.	Mar. 28, 1918
5246	3234	San Diego Consolidated Gas and Electric Co.	Granted permission to abandon a certain spur track.	Mar. 28, 1918
5247	3564	Pacific Electric Railway Co.	Paragraph C of Section No. 1, Decision No. 138, amended with reference to issuance of directories to subscribers.	Mar. 28, 1918
5274	54, 18	Pacific Telephone and Telegraph Co.	Paragraph C of Section No. 1, Decision No. 138, amended with reference to issuance of directories to subscribers.	April 3, 1918
5275	281	Pacific Telephone and Telegraph Co.	Paragraph C of Section No. 1, Decision No. 447, modified with reference to issuance of directories to subscribers.	April 3, 1918
5277	3463	San Diego Consolidated Gas and Electric Co.	Del Mar Water, Light and Power Co. authorized to sell to San Diego Company under conditions specified in decision of February 9, 1918.	April 5, 1918
5280	1830 } Cs. 854 }	Los Angeles Gas and Electric Corporation.	Rate District No. 1 set forth in Decision No. 4852 extended to include a certain portion of West Coast Addition of City of Los Angeles.	April 5, 1918

SUPPLEMENTARY ORDERS AND MISCELLANEOUS.

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5295	1955	Lake Tahoe Railway and Transportation Co.	Decision No. 485 amended to permit payment of interest at rate of 6 per cent per annum on notes to be issued.	April 12, 1918
5313	2361	San Jose Railroads.	Permission granted to abandon a certain narrow gauge line provided auto bus service is established.	April 16, 1918
5319	3032	Southern California Edison Co.	Permission granted to Imperial Utility's Corporation to exercise rights and privileges conferred by board of supervisors of Imperial County with reference to installation and operation of a water plant provided a stipulation is filed with commission covering value of franchise.	April 17, 1918
5320	3406	Bayou Vista Ditch Co.	Extension of time granted to comply with Chapter 499, Laws of 1911, as amended by Chapter 600, Laws of 1913.	April 17, 1918
5323	3103	Imperial Valley Farm Lands Association.	Rat's established under Decision No. 5303 collectible on or after April 23, 1918.	April 18, 1918
5330	2215	California Telephone and Light Co.	Rates established under Decision No. 5303 collectible on or after April 23, 1918.	April 20, 1918
5332	3553	Susman Mitchell, Receiver of Central Cal. Gas Co.		April 20, 1918
5333	3519	Oakdale Gas Co.		April 30, 1918
5340	CS. 967	E. L. Nunn et al. vs. Sutter Butte Canal Co.	Schedule covering rate for pumping water for irrigation of lands above level of ditches omitted from Decision No. 5277; rates covering this service established in supplemental order.	April 23, 1918
5341	CS. 1032	Henry H. Cutter vs. Sutter Butte Canal Co.	Grant of permission to use \$10,000 of proceeds from sale of preferred stock to pay a note to cover certain construction expenditures.	April 23, 1918
5346	CS. 1083	Geo. Tranter et al. vs. Sutter Butte Canal Co. and Grizzly Land and Irrigation Co.	Grant of permission to use \$170,000 of moneys deposited in depreciation fund under Decision No. 2710 to finance construction of additions and betterments.	April 23, 1918
5346	CS. 2933	Sutter Butte Canal Co.	Decision No. 427 amended to permit the issue on or before June 30, 1919, of \$150,000 of bonds at not less than 80 per cent of face value plus accrued interest.	April 23, 1918
5346	3374	Western States Gas and Electric Co.	Permission granted to abandon a certain spur track.	April 23, 1918
5346	CS. 610	Investigation of Railroad Commission into financial condition of United Railroads of San Francisco.	Permission granted to issue \$250,000, Series C, 6 per cent first and refunding bonds subject to terms of Decision No. 5215.	April 23, 1918
5346	2814	Nevada-California-Oregon Railway	Permission granted for re-barring denied.	April 23, 1918
5347	3118	Atholton, Topoka and Santa Fe Railway Co.	Condition No. 4 of Decision No. 5281 amended.	April 23, 1918
5347	3517	San Joaquin Light and Power Corporation	Permission granted to use \$35,354.18 from sale of bonds to pay in part for construction expenditures.	April 23, 1918
5347	2929	Union Home Telephone and Telegraph Co.	Stipulations filed re value of franchises.	April 23, 1918
5347	2532	Lucerne Water Co.	Stipulation filed re value of franchise.	April 23, 1918
5347	3505	East Bay Water Co.	Stipulations filed re value of franchises.	April 23, 1918
5347	3032	Southern California Edison Co.	Stipulations filed re value of franchises.	April 23, 1918
5347	3477	Coachella Valley Ice and Electric Co. and Southern	Stipulations filed re value of franchises.	April 23, 1918
5347	3476	Rialto Light, Power and Water Co. and Southern	Stipulations filed re value of franchises.	April 23, 1918
5347	3000	Sierras Power Co.	Stipulations filed re value of franchises.	April 23, 1918
5347	3040	Frank Pellissier and E. S. Moore.	Stipulations filed re value of franchises.	April 23, 1918
5347	3074	Portola Water Co.	Stipulations filed re value of franchises.	April 23, 1918



SUPPLEMENTARY ORDERS AND MISCELLANEOUS—Continued.

Dec. No.	Application No.	Applicant	Action	Date
5480	3920	Catherine A. Brooks	Stipulation filed re value of franchise.	May 25, 1918
5478	3760	Murietta Valley Elevator Co.	Decision No. 5383 modified to permit expenditure of proceeds from sale of stock to acquire real estate and erect a grain elevator.	June 11, 1918
5481	2883	Byron-Bethany Irrigation Co.	Supplemental order stating Decision No. 4383 has been fully complied with.	June 12, 1918
5488	2427	Home Telephone Co. of Covina.	Extension of time granted to comply with Chapter 499, Laws of 1911, as amended by Chapter 600, Laws of 1915.	June 19, 1918
5501	3431	Winterhaven Improvement Co.	Supplemental order re filing of ordinance of board of supervisors of Imperial County.	June 19, 1918
5505	3920	Howard Terminal Railway.	Permission granted to issue \$7,000 common capital stock for construction of additions and betterments.	June 24, 1918
5507	2469	Pomona Valley Telephone and Telegraph Union.	Extension of time granted to comply with Chapter 499, Laws of 1911, as amended by Chapter 600, Laws of 1915.	June 24, 1918
5523	Cs. 1107	El Dorado County Water Users' Association vs. Western States Gas and Electric Co.	Order dismissing application for rehearing.	June 27, 1918
5524	3376	North End Stage Line.	Order denying petition for rehearing.	July 15, 1918
5583	Cs. 1134	Grant D. Miller et al. vs. Southern Pacific Co.	Order denying petition for rehearing.	July 15, 1918
5584	2341	Redondo Home Telephone Co.	Extension of time granted to comply with Chapter 499, Laws of 1911, as amended by Chapter 600, Laws of 1915.	July 17, 1918
5599	2403	Santa Monica Bay Home Telephone Co.	Extension of time granted to comply with Chapter 499, Laws of 1911, as amended by Chapter 600, Laws of 1915.	July 17, 1918
5600	2343	Whittier Home Telephone and Telegraph Co.	Extension of time granted to comply with Chapter 499, Laws of 1911, as amended by Chapter 600, Laws of 1915.	July 17, 1918
5643	3700	Murietta Valley Elevator Co.	Permission granted to issue \$1,500 common stock for construction of a spur track.	July 30, 1918
5654	3705	Louis E. Smith et al.	Order denying petition for rehearing.	Aug. 10, 1918
5553	3719	Orange Cove Irrigation Co.	Order denying petition for rehearing.	Aug. 10, 1918
5578	3836	Santa Barbara Telephone Co.	Stipulation filed re value of franchise.	Aug. 10, 1918
5185	3474	Corona Gas and Electric Light Co. and Southern Sierras Power Co.	Stipulation filed re value of franchise.	Aug. 13, 1918
5686	3475	Bishop Light and Power Co.	Stipulation filed re value of franchise.	Aug. 13, 1918
5691	3448	Western Fuel, Gas and Power Co. and Southern California Gas Co.	Stipulation filed re value of franchise.	Aug. 16, 1918
5693	3537	Midway Gas Co.	Stipulation filed re value of franchise.	Aug. 16, 1918
5718	Cs. 948	Central California Traction Co. vs. Stockton Terminal and Eastern Railroad Co.	Decisions Nos. 3557 and 3494 modified with reference to right of way over a certain crossing.	Aug. 23, 1918
5719	3884	Santa Maria Valley Warehouse Co.	Permission granted to issue \$10,000 common stock to be used in completion of warehouse, etc.	Aug. 26, 1918

DISMISSALS (APPLICATIONS).

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DISMISSALS (APPLICATIONS).

Doc. No.	Application No.	Applicant	Action	Date
5018	3349	A. R. G. Bus Co.	Stage service between Camp Kearny and La Jolla	Jan. 8, 1918
5019	3214	Coalinga Pipe Line Co.	To sell certain property	Jan. 13, 1918
5022	3293	San Fernando Mission Land Co.	Railroad Commission to fix water rates	Jan. 15, 1918
5033	3150	Sunny Burns	Stage service between San Pedro and Pt. Fermin	Jan. 21, 1918
5179	3237	Pacific Telephone and Telegraph Co. and Empire Telephone Co.	Pacific Company to withdraw from rendering telephone service in Empire and vicinity and Empire Company to enter business in Empire	Jan. 24, 1918
5181	3043	Centerville Water Co.	To issue additional shares of stock	Mar. 4, 1918
5211	3353	August Oil Co.	To sell certain property to Midway Water Co.	Mar. 6, 1918
5212	2803	Midway Water Co.	To sell shares of capital stock	Mar. 16, 1918
5231	3261	Cuyamaca Water Co.	To secure a loan of \$100,000	Mar. 16, 1918
5276	2608	W. H. Carpenter	Stage service between Montebello and Stephenson Avenue	Mar. 22, 1918
		City of San Diego	Ratification of condemnation of water system and operation of system by said city	April 2, 1918
5300	3007	Dos Palos Telephone Co.	To raise rates on desk phones	April 5, 1918
5301	3319	California Telephone and Light Co.	To enter into an agreement with F. Korbel & Bros.	April 12, 1918
5304	3334	F. L. Barney	To construct and operate a telephone line	April 12, 1918
5312	3333	Sugar Pine Railway Co.	To abandon its road	April 12, 1918
5379	2290	City of Los Angeles and Board of Public Service Commissioners	Railroad Commission to determine terms, conditions and manner of crossing high voltage power lines of Southern California Edison Company by proposed high voltage power lines of City of Los Angeles	April 16, 1918
5379	2281	City of Los Angeles and Board of Public Service Commissioners	Railroad Commission to determine terms, conditions and manner of crossing high voltage power lines of Pacific Light and Power Corporation by proposed high voltage power lines of City of Los Angeles	May 8, 1918
5402	3304	F. D. Bacon	Stage service between Bakersfield and Lost Hills	May 8, 1918
5403	3405	Sunsome & Mushrush	Certificate of public convenience	May 20, 1918
5404	3637	G. Boni	Stage service between Fullerton and Anaheim	May 20, 1918
5405	3903	James R. Dunn	Increase of rates	May 20, 1918
5406	1833	Southern California Gas Co.	To establish toll rates to subscribers	May 20, 1918
5414	3011	Chico Southern Telephone Co.	Stage service between Downey and Stephenson Avenue	May 20, 1918
5442	3533	Chas. H. Lyman	Stage service between Downey and Stephenson Avenue	May 28, 1918
				May 31, 1918

DISMISSALS (APPLICATIONS)—Continued.

Doc. No.	Application No.	Applicant	Action	Date
5461	3562	J. J. Tyeing	Stage service between San Francisco and San Jose	June 5, 1918
5462	3567	A. Campanini	Stage service between Moss Beach and San Francisco	June 5, 1918
5472	3586	Southern Pacific Co.	Increase passenger fares between San Francisco and points in Alameda County	June 5, 1918
5472	3587	Southern Pacific Co.	Increase passenger fares between San Francisco and Broadway Wharf, Oakland	June 5, 1918
5479	3587	W. T. Brown and R. Z. Jenkins	Sale of stage line	June 8, 1918
5481	3596	W. L. Haley	Stage service between Standish and Litchfield	June 11, 1918
5481	3597	George F. Blair	Auto truck service between Tuolumne and Oakdale	June 28, 1918
5481	3599	George W. Lamb and Chas. King	Motor truck between San Francisco and San Jose	July 3, 1918
5481	3599	F. W. Gomph, Agent	Cancellation of certain freight tariffs	July 3, 1918
5486	3613	Butter County Express Co.	Certificate public convenience and necessity	July 3, 1918
5487	3617	F. W. Gomph, Agent	Amendment of exemption sheet	July 3, 1918
5488	3617	Reilly Telephone Co.	Establishment of telephone service at Parlier, to issue stock and to establish rates for exchange service	July 3, 1918
5491	3619	W. F. Bryan	Certificate public convenience and necessity	July 3, 1918
5491	3573	San Francisco and Sacramento Navigation Co.	Increase in freight rates	July 10, 1918
5491	3581	California Transportation Co.	Increase in freight rates	July 10, 1918
5491	3571	Hunt-Hatch Transportation Co.	Increase in freight rates	July 10, 1918
5491	3585	California Navigation and Improvement Co.	Increase in freight rates	July 10, 1918
5491	3582	Farmers Transportation Co.	Increase in freight rates	July 10, 1918
5491	3584	Sacramento Transportation Co.	Increase in freight rates	July 10, 1918
5491	3588	Petaluma and Santa Rosa Railway	Increase passenger fares	July 10, 1918
5492	3585	Great Western Power Co.	Adjustment of rates	July 11, 1918
5492	3559	City Electric Co.	Adjustment of rates	July 17, 1918
5493	3611	Pacific Gas and Electric Co.	Increase in rates (Alameda district)	July 17, 1918
5493	3580	Pacific Gas and Electric Co.	Increase in rates (Colusa and other districts)	July 17, 1918
5493	3412	Pacific Gas and Electric Co.	Increase in rates (San Jose district)	July 17, 1918
5497	3584	United Transfer Co.	Increase in express and freight rates	July 26, 1918
5498	3529	Paso Robles and Shandon Telephone Co.	Change in toll rates	July 26, 1918
5498	3749	C. E. Garner	Auto truck service between San Diego and El Centro	July 23, 1918
5498	3587	Pacific Gas and Electric Co.	Approval of agreement with Union Industrial Works	Aug. 10, 1918
5498	3583	Globe Warehouse Co.	Increase in rates and to cancel certain tariffs	Aug. 10, 1918
5498	3176	City of Oroville	Railroad Commission to fix compensation to be paid Pacific Gas and Electric Co. for gas and electrical system in City of Oroville	Aug. 16, 1918

DISMISSALS (APPLICATIONS).

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5010	1018	City of Palo Alto.	Palo Alto Gas Co. and Pacific Gas and Electric Co.	Jan. 4, 1918
5017	1167	E. A. Berry et al.	Pacific Telephone and Telegraph Co.	Jan. 8, 1918
5018	1170	Maund J. Jacobs	Pacific Telephone and Telegraph Co.	Jan. 15, 1918
5083	1178	L. M. Appleby.	Western Fuel Gas and Power Co.	Jan. 28, 1918
5296	1670	L. E. Thayer	Pacific Gas and Electric Co.	Jan. 30, 1918
5334	1210	Western Auto Stage Co.	Woods, Boyd & Ingalls.	April 18, 1918
5395	1293	Frank Stevenson	Pacific Telephone and Telegraph Co.	April 20, 1918
5438	1212	James Verro, Pugh and Edward M. Pugh.	Pacific Telephone and Telegraph Co.	May 10, 1918
5441	1301	City of Oakland	United Stages	May 27, 1918
5462	1622	City of Daly City.	Pacific Gas and Electric Co.	May 28, 1918
5462	1608	Charles Sherman et al.	Pacific Gas and Electric Co.	May 28, 1918
5470	1217	Valley Telephone Co.	California Michigan Land and Water Co.	June 5, 1918
5479	1253	Thomas R. Hanna	Pacific Telephone and Telegraph Co.	June 19, 1918
5480	1111	Edwin Joy et al.	Port Costa Water Co.	July 15, 1918
5492	1610	City of Burbank	Mount Venice Co.	Aug. 10, 1918
5502	1253	Henry Grove	Pacific Light and Power Co.	Aug. 16, 1918
5721	1182	L. P. Disque et al.	Pacific Telephone and Telegraph Co.	Aug. 23, 1918
			Pacific Gas and Electric Co.	Aug. 24, 1918



## GRADE CROSSINGS, TRACK ABANDONMENT AND SPUR TRACKS.

Decision No.	Application No.	Applicant	Location	Action	Date
5005	3220	Alameda County	Pleasanton	Granted	Jan. 2, 1918
5006	3419	Northwestern Pacific Railroad Co.	Arcata	Granted	Jan. 3, 1918
5007	3403	A. T. and S. F. Railroad	Angiola	Granted	Jan. 3, 1918
5008	3347	Los Angeles County	Los Angeles Co.	Granted	Jan. 3, 1918
5011	3414	Pacific Electric Railway Co.	Los Angeles	Granted	Jan. 5, 1918
5012	3415	Pacific Electric Railway Co.	Los Angeles	Granted	Jan. 5, 1918
5013	3416	Pacific Electric Railway Co.	Los Angeles	Granted	Jan. 5, 1918
5014	3423	Southern Pacific Co.	Westmoreland	Granted	Jan. 5, 1918
5028	3439	Southern Pacific Co.	Newark	Granted	Jan. 5, 1918
5019	3418	San Diego and Arizona Railway	National City	Granted	Jan. 9, 1918
5028	3439	Southern Pacific Co.	Oakland	Granted	Jan. 11, 1918
5029	3440	Southern Pacific Co.	Newman	Granted	Jan. 11, 1918
5041	3453	San Bernardino County	Goffs	Granted	Jan. 15, 1918
5054	3483	Western Pacific Railroad	San Francisco	Granted	Jan. 17, 1918
5069	3473	Southern Pacific Co.	Tracy	Granted	Jan. 24, 1918
5073	3297	Western Pacific Railroad Co.	Stockton	Granted	Jan. 28, 1918
5080	2485	Southern Pacific Co.	Newman	Granted	Jan. 28, 1918
	3234				
5082		Alameda County	Altamont	Granted	Jan. 30, 1918
	3235				
5104	3499	A. T. and S. F. Railroad Co.	San Diego	Granted	Feb. 5, 1918
5111	3438	Pacific Electric Railway Co.	San Bernardino Co.	Granted	Feb. 7, 1918
5115	3455	Pacific Electric Railway Co.	Arcadia	Granted	Feb. 7, 1918
5118	3501	Northwestern Pacific Railroad Co.	Arcata	Granted	Feb. 7, 1918
5126	3507	Southern Pacific Co.	Huntington Beach	Granted	Feb. 13, 1918
5129	3523	A. T. and S. F. Railroad Co.	Fresno	Granted	Feb. 15, 1918
5130	3528	Southern Pacific Co.	Callexico	Granted	Feb. 15, 1918
5135	3532	Southern Pacific Co.	Remount	Granted	Feb. 18, 1918
5137	3452	Pacific Electric Railway Co.	Venice	Granted	Feb. 17, 1918
	2474				
5146	2480	County of Contra Costa	Bay Point	Sup. order	Feb. 20, 1918
	2481				
5148	3113	A. T. and S. F. Railroad Co.	Ontario	Granted	Feb. 21, 1918
5151	3025	Los Angeles County	Los Angeles Co.	Granted	Feb. 21, 1918
5154	3545	A. T. and S. F. Railroad Co.	Upland	Granted	Feb. 23, 1918
5162	3549	Southern Pacific Co.	Westmoreland	Granted	Feb. 26, 1918
5167	3550	A. T. and S. F. Railroad Co.	Emeryville	Granted	Mar. 2, 1918
5168	3529	City of Bakersfield	Bakersfield	Granted	Mar. 2, 1918
5169	3331	City of Huntington Beach	Huntington Beach	Granted	Mar. 2, 1918
5173	3536	Pacific Electric Railway Co.	San Bernardino	Granted	Mar. 2, 1918
5184	3484	Long Beach	Long Beach	Granted	Mar. 6, 1918
5189	3573	Tidewater Southern Railway Co.	Hillmar	Granted	Mar. 9, 1918
5190	3582	Southern Pacific Co.	Fresno	Granted	Mar. 9, 1918
5192	3537	Pacific Electric Railway Co.	Santa Ana	Denied	Mar. 9, 1918
5192	3583	Pacific Electric Railway Co.	Los Angeles Co.	Denied	Mar. 9, 1918
5204	3588	San Diego and Arizona Railway Co.	Coronado	Granted	Mar. 14, 1918
5223	3369	Southern Pacific Co.	Remount	Granted	Mar. 22, 1918
5224	2481	City of Santa Monica	Santa Monica	Denied	Mar. 22, 1918
5228	3428	Tulare County	Tulare Co.	Granted	Mar. 25, 1918
5228	3430	Tulare County	Orangehurst	Granted	Mar. 25, 1918
5231	3429	Tulare County	Tulare Co.	Granted	Mar. 25, 1918
5232	3612	Monterey County	San Lucas	Granted	Mar. 25, 1918
5233	3613	A. T. and S. F. Railway Co.	Pittsburg	Granted	Mar. 25, 1918
5239	3583	Pacific Electric Railway Co.	Playa del Rey Station	Granted	Mar. 27, 1918
5240	3545	Pacific Electric Railway Co.	Los Angeles Co.	Granted	Mar. 27, 1918
5244	3282	State Highway Commission	Wallace	Granted	Mar. 27, 1918
5247	3564	Pacific Electric Railway Co.	Los Angeles Co.	Granted	Mar. 28, 1918
5248	3637	A. T. and S. F. Railway Co.	Fresno	Granted	Mar. 28, 1918
5270	3440	Southern Pacific Co.	Newman	Sup. order	April 2, 1918
5272	3632	Fresno Interurban Railway Co.	Fresno Co.	Granted	April 3, 1918
5273	3594	A. T. and S. F. Railway Co.	Porterville	Granted	April 3, 1918
5284	3649	A. T. and S. F. Railway Co.	Cutler	Granted	April 6, 1918
5287	3584	Sacramento County	Herald	Granted	April 6, 1918
5288	3585	Sacramento County	Vanstow	Granted	April 6, 1918

# GRADE CROSSINGS, TRACK ABANDONMENT AND SPUR TRACKS —Continued.

Petition No.	Application No.	Applicant	Location	Action	Date
5313	2361	San Jose Railroads	San Jose	Granted	April 13, 1918
5327	3665	Southern Pacific Co.	Stockton	Granted	April 18, 1918
5348	3579	Albany	Albany	Granted	April 29, 1918
5353	3617	A. T. and S. F. Railway Co.	Alexandro	Granted	April 29, 1918
5354	3671	Los Angeles County	Lancaster	Granted	April 29, 1918
5355	3672	A. T. and S. F. Railway Co.	San Bernardino	Granted	April 29, 1918
5356	3677	Pacific Electric Railway Co.	Riverside Co.	Granted	April 29, 1918
5357	3678	Pacific Electric Railway Co.	San Fernando	Granted	April 29, 1918
5361	3427	City of Palo Alto	Palo Alto	1	April 30, 1918
5367	3118	A. T. and S. F. Railway Co.	San Luis Rey	Granted	April 30, 1918
5384	3921	City of San Bruno	City of San Bruno	Granted	May 8, 1918
5387	3723	Southern Pacific Co.	San Francisco	Granted	May 8, 1918
5391	3631	Los Angeles and San Diego Beach Railway Co.	La Jolla Park	Granted	May 11, 1918
5397	3427	City of Palo Alto	Palo Alto	2	May 16, 1918
5400	3751	Southern Pacific Co.	Westmoreland	Granted	May 16, 1918
5408	3763	A. T. and S. F. Railway Co.	San Francisco	Granted	May 20, 1918
5419	3724	Pacific Electric Railway Co.	Los Angeles Co.	Granted	May 24, 1918
5426	3753	Emergency Transportation Co.	Oakland	Granted	May 24, 1918
5435	3772	Southern Pacific Co.	Florin	Granted	May 25, 1918
5436	3770	A. T. and S. F. Railway Co.	Sultana	Granted	May 25, 1918
5448	3773	Southern Pacific Co.	Essex	Granted	May 28, 1918
5454	3790	Southern Pacific Co.	Tehachapi	Granted	May 31, 1918
5461	3804	Southern Pacific Co.	Glorietta	Granted	June 4, 1918
5480	3829	A. T. and S. F. Railway Co.	Orange Co.	Granted	June 11, 1918
5484	3708	City of Palo Alto	Palo Alto	Granted	June 18, 1918
5486	3542	A. T. and S. F. Railway Co.	Fullerton	Granted	June 19, 1918
5489	3600	Pacific Electric Railway Co.	Los Angeles Co.	Granted	June 19, 1918
5493	3838	City of Anaheim	Anaheim	Denied	June 19, 1918
5496	3299	City of Pasadena	Pasadena	Granted	June 19, 1918
5497	3834	Southern Pacific Co.	Atwater	Granted	June 19, 1918
5498	3836	Southern Pacific Co.	Santa Barbara	Granted	June 19, 1918
5512	3713	Modesto and Interurban Ry. Co.	Modesto	Granted	June 21, 1918
5513	3838	Southern Pacific Co.	Calexico	Granted	June 24, 1918
5517	1227	Railroad Commission's investigation into crossings of Southern Pacific and The A. T. and S. F. Railway companies.	Aradria	3	June 27, 1918
5548	3870	Pacific Electric Railway Co.	Los Angeles Co.	Granted	July 3, 1918
5573	3859	Pacific Electric Railway Co.	San Antonio Heights	Granted	July 15, 1918
5576	3921	Pacific Electric Railway Co.	Poppy Fields	Granted	July 15, 1918
5577	3897	Southern Pacific Co.	Keyes	Granted	July 15, 1918
5578	3778	State Highway Commission	Tipton	Granted	July 15, 1918
5579	3913	Santa Maria Valley Railroad Co.	Santa Maria	Granted	July 15, 1918
5580	3914	Pacific Coast Railway Co.	Santa Maria	Granted	July 15, 1918
5581	3970	A. T. and S. F. Railway Co.	Le Grand	Granted	July 15, 1918
5582	3928	A. T. and S. F. Railway Co.	Emeryville	Granted	July 15, 1918
5583	3910	Southern Pacific Co.	Friant	Granted	July 15, 1918
5584	3942	City of San Diego	San Diego	Granted	July 15, 1918
5585	3931	Western Pacific Railroad Co.	Oakland	Granted	July 15, 1918
5609	3685 and 3769	Kings County	Kings Co.	Granted	July 26, 1918
5616	3975	Southern Pacific Co.	Oakland	Granted	July 23, 1918
5617	3674	Pacific Electric Railway Co.	Los Angeles Co.	Granted	July 25, 1918
5635	3818	San Jose Railroads	Santa Clara Co.	Granted	July 26, 1918
5642	3985	A. T. and S. F. Railway Co.	Bet. Oakland and Richmond.	4	July 30, 1918

<sup>1</sup>Motion to dismiss denied.

<sup>2</sup>Petition for rehearing denied.

<sup>3</sup>Automatic flagman ordered.

<sup>4</sup>Train service ordered abandoned.

**GRADE CROSSINGS, TRACK ABANDONMENT AND SPUR TRACKS**  
**—Continued.**

Decision No.	Application No.	Applicant	Location	Action	Date
5645	3737	Pacific Electric Railway Co.	Naples	Granted	July 30, 1918
5650	3693	Tidewater Southern Railway Co.	Turlock	Granted	Aug. 3, 1918
5653	3683	Pacific Electric Railway Co.	Sawtelle Line	Granted	Aug. 10, 1918
5677	3817	San Jose Railroads.	Santa Clara Co.	Granted	Aug. 10, 1918
5681	3991	Southern Pacific Co.	Lemoore	Granted	Aug. 10, 1918
5682	3988	Southern Pacific Co.	Turlock	Granted	Aug. 10, 1918
5683	4007	Southern Pacific Co.	Turlock	Granted	Aug. 13, 1918
5689	4011	Southern Pacific Co.	San Jose	Granted	Aug. 16, 1918
5697	3984	San Diego and Los Angeles Beach Railway Co.	San Diego and La Jolla.	Granted	Aug. 24, 1918
5724	4015	Southern Pacific Co.	Monterey	Granted	Aug. 26, 1918
5701	4035	County of San Joaquin.	San Joaquin Co.	Granted	Aug. 26, 1918

# AUTO STAGES, TRUCKS AND JITNEY BUSES.

## AUTO STAGES, TRUCKS AND JITNEY BUSES.

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Dec. No.	Applica- tion No.	Applicant	Nature of application	Action	Date of decision
5023	3401	Dunkl Corcoran	Truck service between Groveland and Chinese Sta.	Denied; adequate service in operation.	Jan. 9, 1918
5027	3393	I. L. Palmer and L. E. Marshall	Truck service between San Diego and Descanso.	Granted	Jan. 9, 1918
5030	3177	P. Insular Railway Co.	Auto stage service between Palo Alto and Camp Fremont.	First supplemental order.	Jan. 11, 1918
5031	3170	George F. Miller	Auto stage service between El Centro and Campo.	First supplemental order.	Jan. 11, 1918
5032	3392	J. L. Hall	Auto stage service between Santa Paula and Oxnard.	Granted	Jan. 11, 1918
5039	3402	Carl C. Allen and A. S. Longacre	Auto stage service between Fresno and Clovis.	Granted	Jan. 15, 1918
5042	3292	C. D. Judd	Auto stage service between Sacramento and Davis.	First supplemental order.	Jan. 15, 1918
5049	3394	Neil Forrest and Red Star Stage Line	See decision page 36.	Dismissed	Jan. 17, 1918
5052	3403	F. C. Joseph	Auto stage service between Fresno and Clovis.	First supplemental order.	Jan. 21, 1918
5053	3406	A. W. Brant et al.	See decision page 40.		
5049	3250	Henry Stoen	Truck service between Los Angeles and Camp Kearny.	Denied; adequate service in operation.	Jan. 30, 1918
5063	3271	White Bus Line	See decision page 28.	Denied; adequate service in operation.	Jan. 30, 1918
5070	3473	Pickwick Stages	Auto stage service between San Diego and Camp Kearny.	First supplemental order.	Feb. 2, 1918
5084	3390	American Auto Tours Co.	See decision page 70.		
5083	3387	Sutherland's Tin Juana Stages.	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5090	3378	Jakeway & Georgeson Truck Co.	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5094	3248	Sunset Surety Co.	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5095	3172	William J. Kalosky et al.	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5099	3173	A. B. Watson (Crown Stage Co.)	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5106	3314	United Stages	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5107	3421	Pickwick Stages	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5109	3275	Gus Kalmos	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5112	3408	Glendale and Montrose Railway	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5113	3465	Glendale and Montrose Railway	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5116	3394	United Stages	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918
5117	3407	Muswell-Anderson Stage Line	Auto stage service between Los Angeles and Camp Kearny.	Granted	Feb. 5, 1918

## AUTO STAGES, TRUCKS AND JITNEY BUSES—Continued.

Dec. No.	Applicant	Nature of application	Action	Date of decision
5122	Escondido Truck Line	Truck service between Escondido and San Diego	Granted	Feb. 7, 1918
5128	A. B. Watson (Crown Stage Co.)	Stage service, Garden Grove to connect with Santa Ana-Long Beach Line.	First supplemental order	Feb. 19, 1918
5139	George G. Frank and W. Saunders	Stage service between Santa Maria and Casmalia	Dismissed	Feb. 19, 1918
5142	C. Metzler, Jr.	Stage service between Riverdale and Fresno	Granted	Feb. 20, 1918
5143	E. B. Dillingham	Stage service between Long Beach and Whittier	Granted	Feb. 20, 1918
5145	D. M. Rife	Stage service between Fresno, Riverdale and intermediate points.	Granted	Feb. 20, 1918
5153	C. S. Friend vs. California Stages Co. et al.	Request for dismissal.	Dismissed	Feb. 23, 1918
5164	C. M. Coping	Stage service between Grov-land and Sonora	First supplemental order	Feb. 27, 1918
5166	O. R. Fuller	See decision page 311.		
5171	Charles B. Lloyd	Stage service between Santa Maria and Los Olivos	Granted	Mar. 2, 1918
5172	A. R. Williams	Stage service between Santa Maria and Casmalia	Granted	Mar. 2, 1918
5174	Westmoreland & Thornburgh	Stage or truck service between Santa Maria and Sisquoc.	Granted	Mar. 2, 1918
5176	H. D. Barton	Auto stage service between Auburn, Grass Valley and intermediate points.	Granted	Mar. 4, 1918
5178	D. M. Rife	Stage service between Fresno, Riverdale and intermediate points.	First supplemental order	Mar. 4, 1918
5182	C. W. Bowen	Stage or truck service between Carmel-by-the-Sea and Monterey.	Granted	Mar. 6, 1918
5195	San Diego and Southeastern Railway	Stage service between Lakeside, Ramona and Julian and intermediate points.	Supplemental order	Mar. 11, 1918
5249	H. W. Spurr	See decision page 478.		
5251	P. L. Wiersma (Peerless Stage Assn.)	Stage service between Oakland and Monterey	Denied; adequate service in operation.	Mar. 20, 1918
5252	R. J. Vannoy and F. H. Kuck	Stage service between Sisson and McCloud	Denied; adequate service in operation.	Mar. 20, 1918
5253	Morris Halpern	Stage service between Marysville and Sacramento	Granted	Mar. 29, 1918
5256	George B. Mith	See decision page 494.		
5258	San Bernardino Mountain Auto Line	Stage service between Forest Home Junction and Forest Home.	Granted	April 1, 1918
5259	O. R. Fuller	Stage service between San Bernardino, Redlands and points in San Bernardino Mountains.	Denied; adequate service in operation.	April 1, 1918
5263	Leon D. Cover	Stage service between Pasadena and Lananda Pk.	Dismissed	April 2, 1918
5264	Star Auto Stage Assn.	Stage service between Turlock and Newman	First supplemental order	April 2, 1918
5265	Kings River Stage and Transportation Co.	Stage service between Sanger and Hume	Granted	April 2, 1918
5285	C. M. Blabon	Stage service between Oakland and San Jose	Granted	April 2, 1918
5299	Clarence B. Rome	Stage service between Riverside and Alessandro	Granted	April 2, 1918

## AUTO STAGES, TRUCKS AND JITNEY BUSES.

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5284	Ralph E. Williams	Stage service between Banning and Riverside	First supplemental order	April 6, 1918
5285	Henry T. Campbell and C. L. Simonds	Stage service between Oakland and San Jose	Granted	April 10, 1918
5290	Denni Pettas	Stage service between Antioch and Pittsburg	Denied; adequate service in operation.	April 10, 1918
5291	Warren T. Hanley	Stage service between Carpinteria and Santa Barbara	Denied; adequate service in operation.	April 10, 1918
5292	C. A. Fernald	Stage service between Randburg and Mojave	Granted	April 10, 1918
5294	Charles B. Rome	Stage service between Riverside and Alessandro	First supplemental order	April 10, 1918
5295	Alward and Brouillard	Stage service between Delta and Carrville	Granted	April 12, 1918
5297	People's Auto Bus Co.	Stage service between Sacramento and Mills Station	Granted	April 12, 1918
5298	Walter Kuney	Sale of stage service	Dismissed	April 12, 1918
5299	Lawrence Stage Co.	Stage service between Crescent Mills and Quincy	Granted	April 12, 1918
5305	Maxwell-Anderson Stage Line	Stage service between South Fork and Garberville	First supplemental order	April 12, 1918
5310	Fred V. Fish et al.	Stage service between Oakland and Martinez	Denied; no appearance made at hearing.	April 16, 1918
5324	Stanley C. Harrell	Freight service between Plymouth and Sacramento	Granted	April 18, 1918
5325	Peninsular Railway Co.	To abandon auto service between Palo Alto and Camp Fremont	Granted	April 18, 1918
5331	Beamon Truck Line	Stage service between San Diego and Tia Juana	Granted	April 20, 1918
5335	Fred Daggett	Stage service between Pepperwood and Dyerville	Granted	April 20, 1918
5342	Chas. B. Lloyd	Stage service between Santa Maria and Los Olivos	First supplemental order	April 20, 1918
5343	Kings River Stages and Transportation Co.	Stage service between Sanger and Hume	First supplemental order	April 20, 1918
5345	Pickwick Stages	Stage service in the counties of San Diego, Imperial, San Bernardino, Riverside, Orange and Los Angeles	Granted	April 20, 1918
5347	C. E. Bunker, Jr.	Stage service between Palm Springs and White water	Granted	April 20, 1918
5355	H. D. Barton	Stage service between Auburn, Grass Valley and Nevada City	Dismissed	April 30, 1918
5395	Cascade and Huntington Lake Stage Co.	Stage service between Cascade and Huntington Lake	Granted	April 30, 1918
5398	Edwin J. Brent	Stage service between Los Angeles and Brent's Mountain Grags	Granted	April 30, 1918
5371	L. L. Grieve	Stage service between Princeton and Colusa	Granted	May 2, 1918
5372	Alward and Brouillard	Stage service between Delta and Carrville	Fifth supplemental order	May 2, 1918
5373	R. E. Wood	Stage service between Bakersfield and Taft	Granted	May 2, 1918
5374	Demi Pettas	Stage service between Antioch and Pittsburg	Dismissed	May 2, 1918
5385	Daily Auto Delivery	Stage service between Los Angeles and Long Beach	Granted	May 8, 1918
5401	Calstoga and Clear Lake Stage Line vs. White Transportation Co.		White Transportation Co. ordered to discontinue service.	May 17, 1918
5410	Edwin J. Brent	Stage service	First supplemental order	May 21, 1918
5412	C. R. Waterman and G. L. Swager	Stage service between El Toro and Santa Ana	Granted	May 21, 1918
5413	Millard Foster and Scott Frather	Stage service between Santa Ana and Tustin	Granted	May 21, 1918

## AUTO STAGES, TRUCKS AND JITNEY BUSES—Continued.

Doc. No.	Applicant	Nature of application	Action	Date of decision
5114	Dominic Forant	Stage service between San Jose and Santa Clara City.	Denied; adequate service in operation.	May 21, 1918
5115	Christ Stavros and N. Stavros	Stage service between Merced Falls and Merced City.	Granted	May 24, 1918
5120	Mark J. Regan	Stage service between San Juan and Watsonville.	Denied; adequate service in operation.	May 24, 1918
5123	North End Stage Line	Stage service between Truckee and Pomona.	Granted	May 24, 1918
5133	San Bernardino Mountain Auto Line	Stage service between Forest Home Junction and Forest Home.	First supplemental order.	May 30, 1918
5138	Trinity Shasta Auto Stage Co.	Stage service between Delta and Curryville.	Granted	June 4, 1918
5139	S. P. Blumberg	Stage service between Walnut Creek and Cowell.	Granted	June 4, 1918
5145	Peoples Auto Bus Co.	To issue stock.	Granted	June 5, 1918
5153	Fischer Motor Co.	Stage service between San Francisco and Loma Park.	Granted	June 5, 1918
5159	E. L. McConnell	Stage service between Paso Robles and San Luis Obispo.	Granted	June 6, 1918
5170	F. Canhupe and J. J. Hubert	Stage service between Monterey and San Francisco.	Granted	June 6, 1918
5175	C. M. Ray	Stage service between Sacramento and Woodland.	Granted	June 11, 1918
5178	Domingo S. Rosa	Stage service between Cambria and San Luis Obispo.	Granted	June 11, 1918
5190	V. W. Mathison	Stage service between Hollister and Watsonville.	First supplemental order.	June 16, 1918
5191	Lawrence Stage Co.	Stage service between Crescent Mills and Quincy.	First supplemental order.	June 16, 1918
5195	John A. Holmes	Stage service between Lemoore and Dudley.	Granted	June 19, 1918
5201	Wallace B. Twitchell	Stage service between St. Helena and Walters Sports Park.	Granted	June 27, 1918
5222	Big Basin Auto Stage Co.	Stage service between San Jose and State Redwood Park.	Granted	June 27, 1918
5229	H. W. Schuman	Stage service.	Granted	July 1, 1918
5231	E. M. Burner	Stage service.	Granted	July 1, 1918
5232	C. A. Kirkpatrick	Stage service between Camp Wishon and Porterville.	Granted	July 1, 1918
5237	Wallace B. Twitchell	Stage service.	Granted	July 1, 1918
5249	United Stages Co.	Stage service.	Denied; adequate service in operation.	July 3, 1918
5295	White Bus Line vs. A. R. G. Bus Co.	Stage service.	Disbursed	July 10, 1918
5271	F. E. Trueman	Stage service.	Granted	July 15, 1918
5272	Fischer Motor Co.	Stage service.	First supplemental order.	July 15, 1918
5274	K. F. Beverly	Stage service.	Granted	July 15, 1918
5285	Geo. Wm. Smith	Stage service.	Granted	July 15, 1918
5286	Kellogg Express Co., Peoples Express Co., American Transfer and Storage Co., Austin Freight and Transportation Co., Oakland	Increase express and freight rates.	Granted	July 17, 1918



Parcel Delivery, B-Line Transfer Co., Merchants Express and Draying Co., Williams' Motor Express Co., Santa Fe Express and Draying Co., United Transfer Co., Pickwick Stages, Northern Division.	Stage service between Los Angeles and San Francisco.	Supplemental opinion	July 17, 1918
3421	Carl Brusso	Granted	July 17, 1918
3814	Carlton H. Eckles	Granted	July 17, 1918
3855	Walter Augustus Bailey	Granted	July 17, 1918
3726	Pickwick Stages, Northern Division.	Granted	July 17, 1918
3744	Ben J. Byles	Granted	July 17, 1918
3767	Ed E. Cochran	Granted	July 17, 1918
3843	Joe Besone's Service Motor Express.	Granted	July 17, 1918
3846	Hazard & Parker	Granted	July 17, 1918
3948	William W. Allen	Granted	July 17, 1918
3775	A. M. Fowler	Granted	July 17, 1918
3813	Santa Rosa, Petaluma and Sausalito Auto Stage Co.	Granted	July 17, 1918
3807	E. L. McConnell	Granted	July 17, 1918
3857	D. I. Stewart	Granted	July 17, 1918
3841	Denni Petas	Granted	July 17, 1918
3780	Wm. O. Felscher	Granted	July 17, 1918
3764	M. C. Rutherford	Granted	July 17, 1918
3885	John W. Walker	Granted	July 17, 1918
3748	R. Lorenz and G. H. Yabraus	Granted	July 17, 1918
3783	M. C. Rutherford	Granted	July 17, 1918
3852	Beamon Truck Line	Granted	July 17, 1918
3809	General Motor Trans. Co.	Granted	July 17, 1918
3841	De Luxe Transportation Co.	Granted	July 17, 1918
3839	De Luxe Transportation Co.	Granted	July 17, 1918
Cs. 1295	White Bus Line vs. A. R. G. Bus Co.	Granted	July 17, 1918
3845	W. H. Ford	Granted	July 17, 1918
3756	C. C. Haworth and Harry Hather.	Granted	July 17, 1918
3756	C. C. Haworth and Harry Hather.	Granted	July 17, 1918
3756	Trinity-Shasta Auto Stage Co.	Granted	July 17, 1918
3763	M. C. Rutherford	Granted	July 17, 1918



AUTO STAGES, TRUCKS AND JITNEY BUSES—Continued.

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3571	G. W. McCasland	Stage service between Wasco and Lost Hills	Granted	Aug. 10, 1918
3572	E. A. Murdoch	Stage service between Bakersfield and Glennville	Granted	Aug. 10, 1918
3573	James A. Gray	Stage service	Denied; adequate service in operation.	Aug. 10, 1918
3574	San Diego Campo U. S. Mail Stage	Stage service	Grant of	Aug. 16, 1918
3575	Western Auto Stage Co., Inc.	Increases fares transportation of passengers	Granted	Aug. 26, 1918
3576	Felicien Landier	Stage service	Granted	Aug. 26, 1918
3577	Noah S. Brantburn	Stage service	Granted	Aug. 26, 1918
3578	Carlton H. Eckles and E. K. Ellsworth	Stage service	Granted	Aug. 26, 1918
3579	A. C. Loewy	Stage service	Granted	Aug. 26, 1918
3580	John Nelson and Foster Jones	Stage service	Granted	Aug. 26, 1918
3581	H. V. Whitely	Stage service	Granted	Aug. 26, 1918
3582	J. T. Gibbons	Stage service	Granted	Aug. 26, 1918
3583	J. D. Wasc	Stage service	Granted	Aug. 26, 1918
3584	S. C. Clark	Stage service between Sacramento and Plymouth	Denied; adequate service in operation.	Aug. 26, 1918
3585	George M. Bries	Stage service between Ferndale and Eureka	Denied; adequate service in operation.	Aug. 26, 1918
3586	O. R. Fuller	To acquire certain existing stage lines	First supplemental order	Aug. 26, 1918
3587	San Jose Railroads	Stage service	Granted	Aug. 26, 1918

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